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PAT HARRISON WATERWAY DISTRICT HATTIESBURG MISS F/G 8/6  
PASCAGOULA RIVER COMPREHENSIVE BASIN STUDY. VOLUME VIII. APPEND--ETC(U)  
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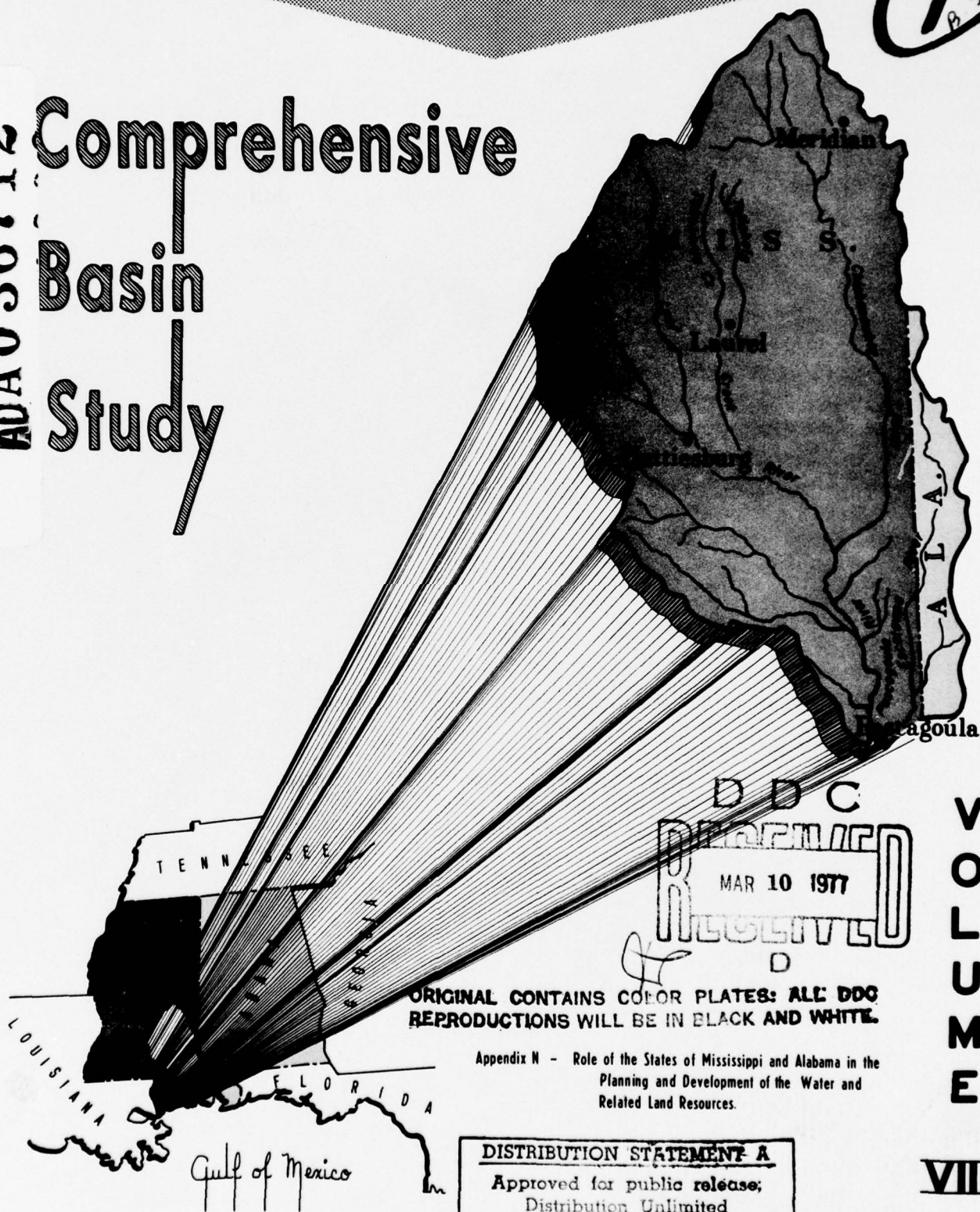
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# PASCAGOULA RIVER

## Comprehensive Basin Study

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Appendix N - Role of the States of Mississippi and Alabama in the  
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VIII



# PASCAGOULA RIVER COMPREHENSIVE BASIN STUDY

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PASCAGOULA RIVER COMPREHENSIVE BASIN STUDY.  
 Volume VIII.  
 APPENDIX N.

ROLE OF THE STATES OF MISSISSIPPI AND ALABAMA  
 IN THE PLANNING AND DEVELOPMENT OF THE WATER AND RELATED  
 LAND RESOURCES IN THE PASCAGOULA RIVER BASIN

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Prepared by the Pat Harrison Waterway District of the  
 State of Mississippi, and the Department of Conservation  
 of the State of Alabama, as a contribution to the  
 Pascagoula River Comprehensive Basin Study

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ROLE OF THE STATES OF MISSISSIPPI AND ALABAMA  
IN THE PLANNING AND DEVELOPMENT OF THE WATER AND RELATED  
LAND RESOURCES IN THE PASCAGOULA RIVER BASIN

PREFACE

Due to the increased emphasis upon comprehensive and coordinated planning, there is a need for a better and more complete understanding of the role of the State in the development and management of water and related land resources. This role depends largely on the laws and programs of the State. The purpose of this appendix is to identify laws and programs of the States of Mississippi and Alabama relating to the development of water and related land resources and to show the role of the states in the comprehensive study of the Pascagoula River Basin.

The State of Mississippi portion of the appendix was prepared by the Pat Harrison Waterway District and the Alabama portion by the Alabama Department of Conservation.

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PART A  
STATE OF MISSISSIPPI

SECTION 1  
STATE LAWS, POLICIES, AND PROGRAMS  
PERTAINING TO  
WATER AND RELATED RESOURCES

## INTRODUCTION

Mississippi considers water one of its most valuable resources and has long recognized the need to provide for its development. Development has called for certain controls over its use, as provided by the Constitution of the State and by the Mississippi Code. The Constitution and the Code contain laws that pertain to water rights and to regulatory authority over water and rights to water. They further provide for the establishment of the several state agencies whose activities have impact upon the development and use of the State's water resources.

The pertinent sections of the law are scattered throughout the Constitution and the Code. This part of Appendix N gathers together these sections to provide a description of these water resources regulations. Code and Constitution references for each point in the appendix are summarized in tabular form as Exhibit A.



## I. WATER RIGHTS

The right to use water, both surface and ground, is the primary point of impact of regulation of water resource development and of its control. In the world today, it is mandatory that the right to use water be controlled wisely, not only in the interest of the present but also in the developments of the future. Regulation of water rights in Mississippi is not only extended to quantity of use but is also extended to the effects of use upon quality. Furthermore, the Constitution and the Code include regulations that recognize that rights made available to one user may have substantial effects upon other persons. Provisions relate to water rights doctrine, surface and ground water, access to lakes and streams, diversion between basins, and the exercise of the right of eminent domain.

### A. Doctrine

Sections 5956.01 and 5956.04 of the Mississippi Code clearly establish the doctrine for surface water rights; however, the doctrine with regard to rights to ground water is not specifically given in the Code.

Section 5956.01 declares that the general welfare of the people of the State of Mississippi requires that the water resources of the State be put to beneficial use to the fullest extent and that the waste and unreasonable method of use of water be prevented. It also provides that the conservation of such water be exercised by the reasonable and beneficial use thereof in the interest of the people. Water occurring in any watercourse, lake or other natural water body of the State, is declared to be among the basic resources subject to appropriation in accordance with the provisions of the Code. The control, development, and use of water for all beneficial purposes is with the State which must take measures to effectuate full utilization and protection of the water resources within its boundaries.

### B. Surface Water

Section 5956.04 specifies that no right to appropriate or use surface water subject to appropriation shall be initiated or acquired except upon compliance with the provisions of the Code. No person shall take water from a stream, lake, or other watercourse without having a valid right to do so.

Section 5956.16 provides for application for a permit to acquire appropriation rights to be made to a Board of Water Commissioners. A permit is not required for utilization of up to 300 acre feet of the impounded water from a reservoir in a stream having a minimum flow of not more than one-half million gallons per day.

Section 5956.20 requires that a written statement from the Board be obtained by persons desiring to build a dam or reservoir on any

stream with a minimum flow of more than one half million gallons of water per day. The statement must indicate that the construction will not affect plans for the proper utilization of the water resources of the State. If the stream is in a levee district, a copy of a resolution adopted by the levee board approving the construction must also be presented to the Board of Water Commissioners.

Section 5956.23 requires approval by the Board of Water Commissioners for diversion of watercourses.

Surface water appropriation is made equal to other property rights. Section 5956.05 specifies that no water appropriation acquired pursuant to law shall be declared forfeited and surrendered, except by a court of competent jurisdiction, as other property rights are determined. However, after good cause has been shown, the Board of Water Commissioners may modify or terminate any appropriation at any time.

Obstruction of navigable streams is punishable by fines and/or imprisonment (Sections 2210, 2211, 2414, 2415, 8289, and 8416) and discharge of waste into streams is regulated (See page 21 of this Appendix).

The Code establishes the rights of several groups to affect surface water. Municipalities may establish, alter, and change the channels of streams or watercourses (Section 3374.122) and may erect, purchase, maintain and operate waterworks (Section 3374.130). County boards of supervisors may, for authorized flood control improvements of the United States, provide lands, easements, and rights of way; may hold and save the United States free from damage; and may maintain and operate the improvements upon completion (Sections 4767 - 4768).

Drainage districts and water management districts are established to further soil and water conservation and utilization programs in cooperation with the United States and landowners and to strengthen flood control and drainage programs (Sections 4576-4766.07). Flood control districts are established (Sections 4769-4826.01) to cooperate with the United States in construction of flood control improvements. Master water management districts, to plan for works of improvement developed and carried out in cooperation with the Secretary of Agriculture under the provisions of Public Law 566, 83rd Congress, are authorized by Section 5956.101.

Several special districts for management of surface water resources are established: the Pat Harrison Waterway District, the Big Black River Basin District, the Pearl River Basin Development District, the Pearl River Valley Water Supply District, and the Tombigbee River Valley Water Management District.

### C. Ground Water

Rights to ground water are specifically exempted from the sections of the Code pertinent to conservation and development of water resources (Sections 5956.01-5956.268).

House Bill Number 887, as signed by the Governor, June 10, 1966, requires that every person, firm, or corporation desiring to engage in the business of drilling wells for underground water shall apply to the State Board of Water Commissioners for a drilling license. Furthermore, drillers are required to report each well to the Board within thirty days after completion. No license is required for construction of a well on one's own property intended for use only in a single family house which is the permanent residence of the driller. Neither is a license required where the well is used only for watering livestock on the landowner's farm, provided the waters are not to be used by the public.

### D. Access to Lakes and Streams

Access to lakes and streams is generally provided through the exercise of eminent domain. (See pages 9-12 of this appendix.)

Several groups are empowered to provide access: county boards of supervisors, drainage district commissions, water management commissions, master water management commissions, flood control district commissions, the Game and Fish Commission, the Marine Conservation Commission, the Pat Harrison Waterway District, the Big Black River Basin District, the Pearl River Basin Development District, and the Tombigbee River Valley Water Management District.

### E. Diversion Between Basins

Provision is made for consideration, approval, modification, or rejection by the Board of Water Commissioners of applications for permanent or temporary changes in the place of diversion of use of water (Section 5956.23).

Power is given the governing authority of municipalities by Section 3374.122 to establish, alter, or change the channels of streams or watercourses to promote the health, comfort, and convenience of the inhabitants. Drainage district commissions (Section 4739), water management district commissions (Section 4606.7), master water management district commissions (Section 5956.108), and flood control district commissions (Sections 4803 and 4803.01) may construct dams and bypasses for conveying overflow water from a stream so long as the water is discharged back into the same watercourse or another within thirty-five miles from the mouth thereof. However, Section 4744 specifies that the Drainage District Act does not permit the diversion of water from one watershed or basin to another.



#### F. Eminent Domain

Section 17 of Article 3, the Bill of Rights, provides that private property shall not be taken for or damaged by public use, except on due compensation being first made to the owner in a manner prescribed by law. Sections 2747 through 2782 of the Mississippi Code established the procedures and regulations to be used in the exercise of the right of eminent domain. Several sections of the Code specifically relate the right of eminent domain to the water resource of the State.

County boards of supervisors, drainage district commissions, water management district commissions, master water management districts, flood control district commissions, the Game and Fish Commission, the Marine Conservation Commission, the Pat Harrison Waterway District, the Big Black River Basin District and the Pearl River Basin Development District, and Tombigbee River Valley Water Management District are authorized to exercise the right in situations that have impact upon the water resources of the State. The several instances, together with designation of the appropriate section of the Code, are given below:

County boards of supervisors may exercise the right for lands, easements, and rights of way for construction of projects related to:

Section 2995.5, waterways on which the United States has authorized navigation projects;

Section 4767, authorized flood control improvements of the United States;

Section 4767.3, authorized flood control improvements for protection of a potential industrial area or for industrial purposes;

Section 5965, public park or scenic easement, for national parkways;

Section 6037, state parks, forests and other similar purposes;

Section 7627, boat landings and cotton yards; and

Section 8503, roads, streets, highways, seawalls, breakwaters, bulkheads, sloping beaches, and such other devices as may be adopted for the protection of such highways;

Drainage district commissions may exercise the right for lands, easements, and rights of way for construction of:

Section 4593, main ditches, laterals, drains, or levees;

Section 4721, drainage ditches across highways and railroads, telephone and telegraph lines; and

Sections 4766.01 and 4766.02, levees or drainage ditches for flood control work constructed by the United States or any agency thereof.

Water management district commissions may exercise the right for all purposes for which drainage district commissions may exercise the right (Section 4606.7).

Master water management districts may exercise the right for:

Section 5956.108, any property, real or personal, or rights or interests therein reasonably necessary to carry out the other powers of the districts.

Flood control district commissions may exercise the right for:

Section 4776, flood control purposes; and Section 4794, dominant power to exercise the right of eminent domain over the rights of eminent domain of railroad, telegraph, telephone, gas, waterpower, power, and other companies or corporations.

The Game and Fish Commission may exercise the right for:

Section 5844, lands or water suitable for fish hatcheries, game and land farms, state parks, refuges, or for public shooting, trapping, or fishing grounds, or water.

The Marine Conservation Commission may exercise the right for:

Section 6073, construction of ditches or canals to bring additional water to existing oyster reefs or beds, or to create new oyster reefs or beds.

River Basin Districts, (the Pat Harrison Waterway District, Section 5956.180; the Big Black River Basin District, Section 5956.227; the Pearl River Basin Development District, Section

5956.257; the Tombigbee River Valley Water Management District, Section 5956.135) may exercise the right for:

any property, real or personal, or rights or interests therein reasonably necessary to carry out the other powers of the districts.

Public utility companies and municipalities may exercise the right for:

Sections 2778 and 2780, construction of posts, wires, conductors, and pipe lines along and across any waters or canals, as long as they are not dangerous to persons or property and do not interfere with common use.

## II. REGULATORY AUTHORITY

The regulatory authority provided by the Constitution and the Code pertains to water rights, eminent domain, and to the several activities of man as he attempts to provide for his many needs for water. His efforts to obtain a supply for domestic use and human consumption through drilling wells and impounding water and those to preserve the land, through development of flood plains and water basins are given attention. Also given attention are his efforts to provide avenues for transportation and areas for recreation. These activities create situations that require protection of the rights of all affected persons and orderly development to provide for future needs. Furthermore, regulation must be extended to activities that have impact upon water quality as well as those affecting quantity.

The sections of the Code and the Constitution which are pertinent to these several needs for regulation follow:

### A. Permits or Approval Required.

#### 1. For drilling or abandoning wells

No permit is required for drilling or abandoning any specific water well in Mississippi. However, every person, firm, and corporation desiring to engage in the business of drilling wells for underground water must apply to the State Board of Water Commissioners for a drilling license (House Bill Number 887, as signed by the Governor, June 10, 1966). Licenses are renewable annually. Persons constructing a water well on their own properties for their own domestic and farm uses are not required to obtain a license.

Within thirty days after completion of a well, the driller must file a report in the office of the State Board of Water Commissioners.

#### 2. For impoundments

The Mississippi Code, Section 5956.04 (b), provides for construction and maintenance, without a permit but subject to the common law and other lawful water rights of others, of a dam on any stream having a minimum flow of not more than one half million gallons of water per day and utilization of up to 300 acre feet of the impounded water so long as such action does not affect the established average minimum flow in the stream below the dam. If the dam is within the territorial limits of any watercourse lying in whole or in part within a levee district, permission must be obtained from the levee board of the levee district.



The situations other than those described above, a written statement to the effect that the construction will not affect plans for the proper utilization of the water resources of the State must be obtained from the Board of Water Commissioners (Section 5956.20).

Drainage district commissions [Section 4606.5 (1)] and flood control district commissions (Sections 4793 and 4803) are authorized to impound waters and operate and operate and maintain the structures in pursuit of their authorized objectives, as are master water management districts (Section 5956.108), water management districts (Section 4606.7), the Pat Harrison Waterway District (Section 5956.180), the Big Black River Basin District (Section 5956.227), the Pearl River Basin Development District (Section 5956.257), and the Tombigbee River Valley Water Management District (Section 5956.135).

### 3. For channel encroachments

Section 81 of the Mississippi Constitution of 1890 provides that the legislature shall never authorize the permanent obstruction of any of the navigable waters of the State, but may provide for the removal of such obstructions as they existed, whenever the public welfare demands.

Section 5956.16 of the Code provides for permits to acquire appropriate rights to any of the surface streams, lakes, and other watercourses for beneficial use. Application is made to the Board of Water Commissioners. While permanent obstruction of navigable waters is made a misdemeanor (Section 2414), several sections provide for encroachments. Flood control districts (Section 4803) and municipalities (Section 3374.134) are permitted to encroach within certain limits. Provision is made for posts, wires, and conductors (Section 2778), telephone and telegraph lines (Section 7837), and pipelines (Section 2780). Drainage districts (Section 4606.5), water management districts (Section 4606.7), master water management districts (Section 5956.108), the Pat Harrison Waterway District (Section 5956.180), the Big Black River Basin District (Section 5956.227), the Pearl River Basin Development District (Section 5956.257), and the Tombigbee River Valley Water Management District (Section 5956.135) are authorized to make certain encroachments in furtherance of their authorized objectives.

### 4. For developments in flood plains

Mississippi has provided several organizations to work with developments in flood plains. The role of each of these groups is described in more detail in pages 31 through 87 of

this appendix. Drainage district commissions (Sections 4576-4755 and Sections 4763-4766.03), water management district commissions (Section 4606.7), and master water management district commissions (Section 5956.101) are empowered to cooperate with the United States and landowners in soil and water conservation and utilization programs for the further development of the economy of Mississippi and to strengthen flood control and drainage programs. Swamp land district commissions are authorized powers equal to those of the drainage district commissions (Sections 4757-4757.03). Flood control district commissions (Sections 4769-4826.01) are empowered to cooperate with the United States or any agency or instrumentality thereof to protect the lands and other property situated in the several flood control districts from flood waters or overflow.

Master water management districts (Section 5956.108), the Pearl River Basin Development District (Section 5956.257), the Pat Harrison Waterway District (Section 5956.180), the Big Black River Basin District (Section 5956.227) and the Tombigbee River Valley Water Management District (Section 5956.135) may develop flood plains in furtherance of their objectives.

County boards of supervisors are authorized to provide additional assistance in development of flood plains (Sections 4767 - 4768). The county boards are authorized, for flood control improvements, to provide the United States all lands, easements, and rights of way necessary for the construction of projects, to hold and save the United States free from damages due to construction of any works, and to maintain and operate all works after completion.

No special permits or approvals are required, except those required by Section 5956.16, to be requested of the Board of Water Commissioners for appropriation of water rights.

#### 5. For discharge of waste

Senate Bill Number 1955, Regular Session, 1966, established a Mississippi Air and Water Pollution Control Commission and empowered it to control, prevent and abate pollution of surface and underground waters of the State. See page N-27 of this appendix for additional information about the Commission.

Permits from the Commission may be required for the activities listed below which may cause wastes to be discharged into the waters of the State:

- (1) the construction, installation, modification of operation of any disposal system or part thereof or any extension or addition thereto;

- (2) the increase in volume or strength of any wastes in excess of the permissive discharges specified under any existing permit;
- (3) the construction, installation, or operation of any industrial, commercial, or other establishment, including irrigation projects or any extension or modification thereof or addition thereto, the operation of which would cause an increase in the discharge of wastes into the waters of the State or would otherwise alter the physical, chemical or biological properties of any waters of the State in any manner not already lawfully authorized; or
- (4) the construction or use of any new outlet for the discharge of any wastes into the waters of the State.

The State Game and Fish Commission is responsible for enforcement of the Act, insofar as it pertains to industrial pollution, and is the agency designated to conduct water quality studies provided for under the Act. The State Board of Health is responsible for enforcement of the provisions of the Act that pertain to municipal pollution. Both of these designations expire July 1, 1968, by action of the Air and Water Pollution Control Commission as expressed in minutes of the meeting of the Commission held August 12, 1966. The Commission, in resolution dated 15 November 1966, has also given the State Oil and Gas Board responsibility for setting standards and enforcing regulations pertaining to pollution from oil fields.

6. For construction of public water supply

Permits and approvals required for construction of impoundments for public water supply are the same as those indicated in the section of this appendix devoted to impoundments, pages N-8 and N-9.

Section 3374.130 of the Mississippi Code authorizes the governing authorities of municipalities to erect, purchase, maintain, operate, and regulate waterworks. The major water resource management districts, the Big Black River Basin District (Section 5956.228), the Pat Harrison Waterway District (Section 5956.180), the Pearl River Basin Development District (Section 5956.257) and the Tombigbee River Valley Water Management District (Section 5956.135) may assist municipalities in provision of adequate water supplies.

## B. Water Quality

### 1. Waste treatment

Senate Bill Number 1955, Regular Session, 1966, provided for regulation of waste treatment by the Mississippi Air and Water Pollution Control Commission. Enforcement of the regulations is delegated by the Mississippi Air and Water Pollution Control Commission to the State Game and Fish Commission for industrial pollution and to the State Board of Health for municipal pollution. These delegations expire July 1, 1968.

Section 2414 makes pollution of navigable waters a misdemeanor and Section 2415 makes unlawful the dumping by creosoting plants and sawmills of wastage into streams. The State Oil and Gas Board, Section 6132.10(1), is held responsible for prevention of the pollution of fresh water supplies by oil, gas, or salt water.

Section 5956.04(e) forbids appropriation of water by the Board of Water Commissioners if such appropriation will impair the effects of stream standards set under the pollution control laws of the State.

### 2. Flow regulation

The Mississippi Air and Water Pollution Control Commission is responsible for flow regulation of streams to insure adequate water quality. Enforcement is delegated to the State Game and Fish Commission for industrial pollution and to the State Board of Health for municipal pollution. As has been stated, this delegation expires July 1, 1968.

Section 5956.04(e) provides that the Board of Water Commissioners may not approve appropriation of water or impoundments that will result in substantial detriments in either quality or quantity to property owners or to the public interest.



SECTION II

ADMINISTRATIVE STRUCTURE

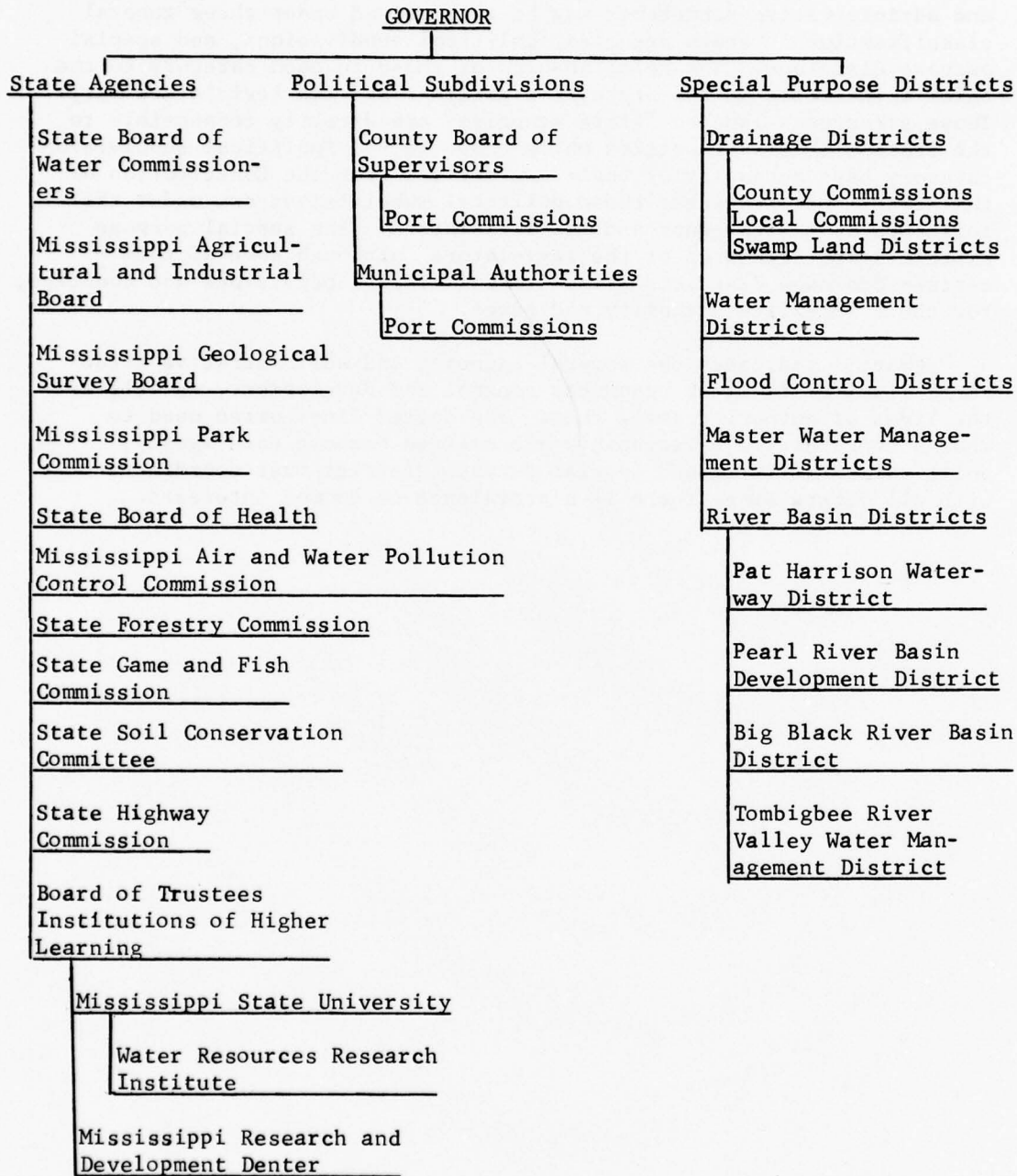
## INTRODUCTION

Mississippi has empowered many of its agencies to deal with water resources in the pursuit of their individual objectives. Many of these agencies have primary objectives far removed from regulation, control, or development of water resources. Other administrative structures were created specifically for these purposes. The several agencies and administrative structures may be categorized under three general classifications: state agencies, political subdivisions, and special purpose districts. The relationships of those in each category to the chief authorities in the state, the governor and the legislature vary. Those structures labeled "state agencies" are directly responsible to the State's chief authorities while those in the "political subdivision" category have authority of their own derived from the Constitution of the State. Nevertheless, these political subdivisions are under the influence of the governor and the legislature. The special purpose districts are creatures of the legislature, although some of them — certain drainage districts — look to political subdivisions and counties, for their immediate authority and power.

Chart I indicates the several agencies and administrative structures involved in water resources control and development, as well as the lines of authority among them. The dotted lines often used to show a coordinative relationship are omitted because each agency, political subdivision and special purpose district must coordinate with all others since there is a prevalence of common interests.

CHART I

AGENCIES AND ADMINISTRATIVE STRUCTURES  
THAT WORK WITH WATER RESOURCES  
IN MISSISSIPPI



SECTION III

STATE AGENCIES, POLITICAL SUBDIVISIONS, SPECIAL  
PURPOSE DISTRICTS AND THEIR ROLES IN THE  
DEVELOPMENT OF THE WATER RESOURCES OF  
THE PASCAGOULA RIVER BASIN



## INTRODUCTION

It is through the state agencies, political subdivisions and special purpose districts that the provisions of the Constitution and the Code are implemented and the water resources controlled, preserved, and developed. Knowledge of these groups and their authority, organizations, programs, and activities are necessary for understanding the state posture and activities with regard to its water resources.

A brief description of each of the administrative structures composes this section of the appendix.

I. PAT HARRISON WATERWAY DISTRICT  
Sections 5956.171 - 5956.196

Authority

Section 5956.43 of the Mississippi Code provided for creation of the Pat Harrison Waterway Commission, composed of Clark, Covington, Forrest, George, Greene, Jackson, Jasper, Jones, Lamar, Lauderdale, Newton, Perry, Smith, Stone, and Wayne Counties in the State of Mississippi. Sections 5956.171 - 5956.196 provided for creation of the Pat Harrison Waterway District and authorized reorganization of the Pat Harrison Waterway Commission as the District.

The District is an agency of the State and a body politic and corporate. It may sue or be sued, adopt, use and alter a corporate seal, make bylaws, employ engineers and attorneys, and may make contracts and execute the instruments needed for the exercise of its powers, rights, and privileges. It may sell, buy, or lease property and may fix and collect charges and rates for any service, facility, or commodity that it furnishes. It may operate and maintain works, plants, and facilities within the project area with the consent of the local governing body. However, the District cannot acquire minerals or royalties within a project area.

To finance its projects, it may apply for and accept grants from the United States or from any corporation or agency of the United States. The District is authorized to receive from the State two mills of all ad valorem taxes due by the counties in the District, if they are not presently retaining two mills for some other authorized purposes. Only one county, Jackson, has authorized its two mills for another purpose, that of development of the port at Pascagoula. Furthermore, counties in the District pay to the District a sum equal to one-half of one mill on all of the taxable property in the county. These payments, both state and county, will continue as long as there remains unpaid and outstanding any bonded indebtedness created by the District Board.

The Board of Directors is authorized to borrow money or issue bonds of the District to be secured solely by pledge of the net revenues of the District. The bonds do not constitute general obligations of the State of Mississippi or of the counties in the District and are not secured by a pledge of full faith. The Board is empowered to issue bonds not to exceed \$25,000,000 in principal amount.

Section 5956.108 delineates the powers, objectives, and responsibilities of the District. In general its objectives are the conservation, utilization, development, and regulation of the waterways and water resources of the Pascagoula River Basin to insure adequate flood control and soil erosion control programs, a sanitary water supply, a satisfactory development of recreation facilities related to water, and improvement of navigability of streams to the extent feasible.

In pursuit of its objectives the District plans, coordinates, and implements a comprehensive development program. It may impound overflow water and surface water of streams in the District, may divert waters, may inundate public lands and property, and may construct works, plants and related facilities for municipal, domestic, commercial, industrial, agricultural, and manufacturing purposes. It controls open channels for water delivery purposes and water transportation and participates in reforestation programs. The District is empowered to exercise the right of eminent domain, as needed, to make possible its projects. This right is superior to the eminent domain rights of railroad, telephone and telegraph lines and properties, electric power lines, pipeline and mains and facilities in the project area.

The District may operate and maintain facilities or may permit other agencies to operate and maintain facilities with the District retaining sufficient control to assure that its standards are maintained.

#### Organization

Each county in the District is represented by a director appointed by the Governor who also appoints three directors at large. Directors are appointed for periods of four years.

The officers consist of president, vice-president, secretary, and a treasurer. The offices of secretary and treasurer may be combined. Officers are elected by the Board from the Board, except that the secretary and the treasurer may or may not be members of the board.

Bylaws provide for three standing committees: finance, works projects, and policy. See Exhibit B. Special committees are authorized when needed.

#### Program and Activities

The Board of Directors has given the following priority to its major objectives: flood control, navigation improvement, pollution abatement, provision of municipal and industrial water, improvement of recreation facilities, and provision of water for irrigation and agriculture. Furthermore, the Board regards as major responsibilities the interpretation of the needs of the District to the public and the development of cooperation among the several interested agencies and political subdivisions. In the pursuit of its objectives, the District interprets the need, provides the administrative and financial base to meet the need, identifies specific program capabilities, researches these capabilities, develops and constructs facilities and, finally, manages the completed improvements.

Although the Board recognizes the need to provide facilities and services in all political subdivisions that provide financial support, it has adopted as a policy the development of the District in its entirety, realizing that benefits will permeate the entire District.

The capability of the District is enhanced by the role played by its executive director as the State representative on the coordinating committee for the development of the comprehensive plan for the Pearl and Pascagoula River Basins. The executive director has provided effective liaison among the several political subdivisions and State agencies. Representatives of the State agencies were invited to meet with the Comprehensive Basin Study Committee. Agenda for the meetings were sent to all State agencies prior to meetings. Copies of plans for development and changes of plans were forwarded to all State agencies while copies of appendices of each Federal agency were sent to all State agencies. At a meeting of representatives of the State agencies, it was made clear that special meetings would be called if any agency found itself facing problems that might be solved by cooperative effort.

The executive director also served as a link between Federal and State agencies and assisted in the coordination of activities of the several Federal agencies involved. He worked closely with the United States Corps of Engineers, the United States Soil Conservation Service, and the Federal Water Pollution Control Administration throughout the period during which the study was conducted.

Not only has the District played a coordinative role, but it has projects of significance and substance, both completed and in progress. A general policy of the District pertaining to public reservoirs was approved in 1963 and is included as Exhibit C. The pilot project of the District, the Flint Creek Project, is near Wiggins, Mississippi, in Stone County. It encompasses the construction of a lake of approximately 1,900 acres of land acquired by the District with an earthfilled dam approximately 2,050 feet long across Flint Creek Basin. Costs of the project are estimated to be \$2,205,000 for recreation development. Table I gives pertinent detail data for the Flint Creek Project and for seven other proposed action projects to be completed — one in each of seven counties. These projects range in size from the West Tiger Creek Project with a drainage area of 3,760 acres and a storage volume of 2,000 acre-feet to the huge Thompson Creek Project with 112,640 drainage acres and 40,000 acre-feet of storage volume. Other projects may be considered at a later date. The eight projects will provide a total of 6,702 acres of water for fish, wildlife, and recreation and a storage volume of 52,500 acre-feet for water supply. Eleven-thousand-nine-hundred-thirty acres of land will be utilized and 3.6 miles of dam will be constructed. Location of the lakes is shown on page N-60.

Four of these proposed projects, Kittrell Creek, Thompson Creek, West Tiger Creek and Whetstone Creek are located partially or wholly



TABLE I  
PASCAGOULA RIVER BASIN  
SUMMARY OF PERTINENT DATA FOR PAT HARRISON WATERWAY DISTRICT'S  
PORTION OF PROPOSED EARLY-ACTION PLAN

	Flint Creek	Little Black Creek	Big George Creek	Archusa Creek	Kittrell Creek	Thompson Creek	West Tiger Creek	Whetstone Creek
Drainage area, acres	10,000	10,000	10,000	10,000	6,413	112,640	3,760	4,706
Dam location, county	Stone	Lamar	George	Clarke	Greene	Perry	Jones	Wayne
Purpose <sup>1</sup>	WS, R FW, FC	R, FW	WS, R FW	R, FW	R, FW	WS, R FW	R, FW	R, FW
Pool elevations, msl								
Conservation (normal)	225	275	85	218	192	181.5	205	232
Average summer	223	274	82	218	192	176.8	205	232
Storage volume, acre-feet								
Conservation (normal)	9,500	2,500	3,000	2,700	3,000	40,000	2,000	2,500
Dam dimensions and data:								
Type	earth-fill	earth-fill	earth-fill	earth-fill	earth-fill	earth-fill	earth-fill	earth-fill
Length, feet	2,050	1,400	1,500	1,500	2,140	6,560	2,015	1,830
Maximum height, feet	52	35	45	35	39	47	26	21
Areas, acres								
Average summer pool	600	400	400	400	329	4,100	217	256
Total to be utilized	1,900	700	1,000	800	730	5,800	500	500

<sup>1</sup>WS = Water supply; R = Recreation; FW = Fish and wildlife; FC = Flood control.

within the boundaries of the DeSoto National Forest. The availability of National Forest land for these developments has been coordinated with the United States Forest Service but additional coordination will be needed to delineate responsibility and authority between the two agencies at the time of project authorization.

Estimated costs for each of the eight projects are given in Table II. Total estimated cost of construction of the reservoirs is \$7,807,000 and of recreation facilities \$8,406,000. Thus, total cost will be over sixteen million dollars. Part of this cost may be borne by the United States Forest Service for construction of recreation facilities on National Forest land at Thompson Creek, Kittrell Creek, Whetstone Creek and West Tiger Creek projects.

Preliminary economic analysis data for the projects is in Table III. Benefit-cost ratios range from a low of 1.9 for each of three projects, Kittrell Creek, Whetstone Creek and West Tiger Creek, to 3.2 for the Thompson Creek Project. Location of the projects is shown on Exhibit D, Map of the Pascagoula River Basin.

The five projects proposed by the United States Corps of Engineers will provide an additional 31,400 acres of water surface and 2,494,000 acre-feet of storage volume in the Basin. See page N-60 for location of the projects.

The combined proposed action projects of the Corps and the Pat Harrison Waterway District will thus provide thirteen major bodies of water with 38,102 surface acres of water. The direct benefits through flood control, supply of water, pollution control, and recreation and development of fish and wildlife are impressive. Although indirect benefits were not used to justify the projects described in the Comprehensive Study, they are also impressive. Development of the water resources will increase the demand for goods and services through improvement of farm incomes, increase in tourist expenditures, and improvement of industrial growth potential. The economic effects upon a community of the addition of industrial jobs are too well known to need mentioning here. Furthermore, these improvements increase both retail sales and the value of the ad valorem tax base. Tax revenues of both the State and local governmental units are thus substantially improved.

Construction by the Federal government is already in progress on an additional reservoir, the Okatibbee Reservoir, in Lauderdale County. It is anticipated that local interest will contribute through the District approximately seventeen percent of the total cost of \$9,000,000 upon completion of the project.

The District has established a Soil Conservation Service Trust Fund to finance additional Soil Conservation Service work plan parties so that watershed planning can be expedited.

TABLE II  
PASCAGOULA RIVER BASIN  
COSTS FOR PAT HARRISON WATERWAY DISTRICT'S  
PROPOSED EARLY-ACTION PLAN

	Normal Pool Size (Acres)	Cost of Reservoir	Cost of Recreation Development	Total Cost
Flint Creek	600	\$ 705,000	\$ 1,500,000	\$ 2,205,000
Little Black Creek	400	500,000	1,000,000	1,500,000
Big Creek	400	500,000	1,000,000	1,500,000
Archusa Creek	400	500,000	1,000,000	1,500,000
Kittrell Creek	329	329,000	987,000*	1,316,000
Thompson Creek	4,100	4,800,000	1,500,000*	6,300,000
West Tiger Creek	217	217,000	651,000*	868,000
Whetstone Creek	<u>256</u>	<u>256,000</u>	<u>768,000*</u>	<u>1,024,000</u>
Totals	6,702	\$7,807,000	\$ 8,406,000	\$16,213,000

Source: Records of Pat Harrison Waterway District.

\*Part of this cost may be borne by the United States Forest Service for construction of recreation facilities on National Forest land.

TABLE III

PASCAGOULA RIVER BASIN  
PRELIMINARY ECONOMIC ANALYSIS FOR PAT HARRISON WATERWAY DISTRICT'S  
PORTION OF PROPOSED EARLY-ACTION PLAN  
(\$1,000)

	Little				West			
	Flint Creek	Black Creek	Big Creek	Archusa Creek	Kittrell Creek	Thompson Creek	Tiger Creek	Whetstone Creek
First Cost	2,205	1,500	1,500	1,500	1,316	6,300	868	1,024
Interest During Construction	---	---	---	---	---	295	---	---
Net and Gross Investment	<u>2,205</u>	<u>1,500</u>	<u>1,500</u>	<u>1,500</u>	<u>1,316</u>	<u>6,595</u>	<u>868</u>	<u>1,024</u>
Annual Charges								
Interest, 3.25%	72	49	49	49	43	214	28	33
Amortization, 0.138%	3	2	2	2	2	9	1	1
O & M (\$15.00FA)	9	6	6	6	5	62	3	4
Total Annual Charges	<u>84</u>	<u>57</u>	<u>57</u>	<u>57</u>	<u>50</u>	<u>285</u>	<u>32</u>	<u>38</u>
Annual Benefits								
Recreation	157	105	105	105	86	816	57	67
Fish and Wildlife	12	8	8	8	7	82	4	5
Flood Control	3 <sup>1</sup>	---	---	---	---	---	---	---
Water Supply	51 <sup>1</sup>	---	---	---	---	---	---	---
Total Annual Benefits	<u>223</u>	<u>113</u>	<u>113</u>	<u>\$ 113</u>	<u>93</u>	<u>898</u>	<u>61</u>	<u>72</u>
Benefit-Cost Ratio	2.7	2.0	2.0	2.0	1.9	3.2	1.9	1.9

<sup>1</sup> From Flint Creek Report - Value of Water to be sold in 1975<sup>2</sup> Not evaluated.



The District has cooperated with the United States Department of Agriculture in its existing programs in its planning to help meet basin needs in 1980. The details of these programs are given in Appendix F, the report of the United States Department of Agriculture. Structural measures to be installed in the PL-566 watersheds include ninety-six floodwater retarding structures, eleven multiple purpose structures with minimum basic facilities and 558 miles of channel improvement. The estimated installation cost of these measures is \$20,623,046: Land treatment measures include conservation cropping systems, pasture improvement, terracing, drainage, farm ponds, tree planting, hydrologic stand improvement and critical area treatment. The estimated cost of land treatment measures is \$7,672,091.

To help meet the basin needs in 1980 the United States Department of Agriculture has identified nine upstream watersheds determined to be physically and economically feasible. These nine are in addition to the eight recommended for implementation through going programs. In the nine watersheds thirty-seven floodwater retarding structures, 294 miles of channel improvement recreation facilities and land treatment measures will be installed at an estimated total cost of \$25,453,998. The Soil Conservation Service was able to fund only one work plan party. District funds enabled the Service to employ another party.

Five watershed projects (Chunky River, Sowashee Creek, Big Creek, Upper Leaf River, and Dry Creek) have been completed and approval has been given for three additional projects. Originally, \$220,000 to be utilized over a period of approximately three years was allocated to these projects. It was anticipated that the originally proposed projects would cover 453,500 acres spread over twelve counties. Subsequent allocation increased the trust fund to \$282,000 to provide for the added projects.

The Executive Director represents Mississippi on the Southeastern Comprehensive Water Pollution Control Project. The Southeastern Project is one of fifteen such federal projects. It is a cooperative effort, enlisting the support of civic groups, industries, cities, counties, state agencies, and other federal agencies. The Project brings to every level required in decision making with regard to pollution control the interpreted data and information projecting the effects of any proposed actions on the water resources, as far as fifty years into the future. The data is provided by economic studies which project water quality and pollution control requirements and by engineering studies which forecast the effects of given combinations of water withdrawals and/or pollution discharges on the established or desired uses of the waters.

Other activities of the District indicate its broad area of impact on the development of the Basin. The District is co-sponsoring a program designed to provide for storage of industrial and municipal water in the proposed Escatawpa and Bowie Reservoirs. It has made a study of the feasibility of locating pulp and/or paper mills in the

Basin. It has recognized, as have the Bureau of Outdoor Recreation and the Bureau of Sport Fisheries and Wildlife, the need for access for small boats and pleasure craft to the Basin's waterways. Preliminary estimates indicate that approximately twenty-five access ramps may be needed. The District is taking steps to investigate the needs in all streams in the Basin.

As part of its efforts to enlist the cooperation of all local and State groups, the District has produced a film which depicts the goals and resources of the District and the potential benefits that may result from its activities.

## II. BOARD OF WATER COMMISSIONERS (Sections 5956.01 - 5956.35)

### Authority

The Board of Water Commissioners was created in 1956 to administer the Water Rights Law of Mississippi.

Section 5956.04 (a) states, "After April 1, 1958, no right to appropriate or use water subject to appropriation shall be initiated or acquired, except upon compliance with the provisions of this Act, and no person shall take water from a stream, lake or other watercourse without having a valid right to do so...".

The Board determines the rights of all persons initiating water uses prior to April 1, 1958, and issues written orders to be recorded in the office of the Chancery Clerk in the county in which the point of diversion is located.

Section 5956.16 provides that any person intending to acquire an appropriate right to any of the surface streams, lakes, or other watercourses of the State for beneficial use, may do so only by making application to the Board for a permit to make such appropriation.

A permit from the Board authorizes the applicant to proceed with the construction of the proposed diversion works. After the completion of the construction and the actual application of water to the proposed beneficial use, the Board examines and inspects the appropriation diversion works. If such works have been completed and the appropriation right has been perfected in conformity with the approved application and plans, the Board issues a license.

### Organization

The Board is composed of seven members appointed by the Governor. The terms are staggered with one member being appointed each year for a term of seven years. One member is selected from each of the six congressional districts, as existed in 1956, and the seventh member is selected from the state-at-large.

A water engineer is employed by the Board and serves as executive officer.

### Programs and Activities

The Board authorizes construction of certain dams and reservoirs when it is determined that such construction will not affect plans

for the proper utilization of the water resources of the State. It makes and maintains an inventory of the water resources of the State.

In cooperation with the United States Geological Survey, the Board operates stream gaging stations and water quality stations at numerous points. Records of water levels in wells in the various aquifers are maintained throughout the State.

Since 1960, the Board has administered the Water Well Drillers' Licensing Act and maintains a file of drillers' logs received.

A public information program is conducted by the Board, also in cooperation with the United States Geological Survey. This program provides beneficial information to water well drillers, consulting engineers, industrial planners, governmental agencies, and individuals. More than 500 requests for information are answered each year. Reports resulting from the cooperative program are published as bulletins by the Board. Some of the bulletins covering information in the Pascagoula River Basin are:

<u>Bulletin Number</u>	<u>Title</u>
58-2	Summary of the Water Resources of the Hattiesburg, Laurel, and Pascagoula Areas.
63-1	Well Records, Logs, and Water Analyses; George and Jackson Counties.
63-4	Compilation of Aquifer Test Data.
63-7	Water Resources Investigations During Fiscal Year 1963; Jackson County.
63-8	Floods of 1959 in Mississippi.
63-9	Floods in 1960 in Mississippi.
63-12	Water Levels and Artesian Pressures in Observation Wells in Mississippi.
64-3	Status of Water Resources in Jackson County.
64-4	Floods in 1961 in Mississippi.
64-5	Status of Salt Water Encroachment in Aquifers along the Mississippi Gulf Coast.
64-6	Floods in 1962 in Mississippi.
65-1	Chemical Composition of Mississippi Surface Waters; 1945-62
66-1	Proposed Reservoir for Old Fort Bayou at Ocean Springs.



### III. STATE AIR AND WATER POLLUTION CONTROL COMMISSION

Senate Bill Number 1955, Regular Session, 1966

#### Authority

The Commission has supervision of the administration and enforcement of the Pollution Control Act (Senate Bill 1955). It has responsibility for developing programs for the prevention, control, and abatement of air and water pollution in the State. The Commission can delegate certain duties and powers pertaining to pollution, as it deems appropriate, to agency or associate members that were involved in air or water pollution control prior to the Act. The Commission may accept and administer loans and grants from the Federal Government and others for carrying on the program of control of water pollution.

#### Organization

The Mississippi Air and Water Pollution Control Commission is composed of the Director of the Division of Sanitary Engineering of the State Board of Health, the Water Engineer of the State Board of Water Commissioners, the Supervisor of the State Oil and Gas Board, the Director of the State Game and Fish Commission, the Director of the State Plant Board, the Executive Secretary of the State Marine Conservation Commission, and four members appointed by the Governor. Association members of the Commission are the Director of the Mississippi Agricultural and Industrial Board, the State Geologist, and the Director of State Parks. These associate members have the right of discussion, but do not have a vote. An Executive Secretary, appointed by the Commission, is administratively responsible for programs of the Commission.

#### Programs and Activities

The Commission has not been in existence long enough to plan and implement programs and activities. The activities in which it is to engage, as authorized by Senate Bill Number 1955, are to conduct and encourage studies and research related to air and water pollution; to collect and disseminate information related to air and water pollution prevention and control; to adopt standards of water quality; to enforce rules and regulations of the Commission; to issue or revoke orders with references to discharges of contaminants and wastes into the air and water of the State, and to install or operate disposal systems or air cleaning devices. Temporary minimum standards applicable to all surface waters as adopted by the Commission are attached as Exhibit E.

#### IV. STATE BOARD OF HEALTH (Section 7024 - 7096.01)

##### Authority

The Mississippi State Board of Health is responsible for providing adequate methods for enforcing the laws and orders of the Board relating to health matters of the State. It also has been delegated responsibility for enforcing regulations for control of water pollution by municipalities.

##### Organization

The Board consists of eleven members. Ten are appointed and one, the executive officer, is elected by the Board. Eight of the appointed members are required to be qualified physicians of the State. One appointive member shall be a licensed and practicing dentist of the State, and one shall be an optometrist and a member of the Mississippi Optometric Association. The Governor appoints the members, subject to the approval of the Senate, after he has received nominations from the State Medical Association.

##### Programs and Activities

The Board carries on a broad and intensive program for protecting the health of Mississippians. Included in the overall program is water pollution control which the Sanitary Engineering Division has administered until recent passage of Senate Bill No. 1955. The State Board of Health laboratory provides a complete sanitary and bacteriological analysis of thousands of water and waste samples sent to the laboratory by local sanitarians and sanitary engineering staffs. The public health chemists also analyze stream samples collected by the United States Corps of Engineers and the United States Geological Survey. The recently created State Air and Water Pollution Control Commission, a separate agency which has been discussed previously in this section, now has the major responsibility for providing and enforcing provisions related to water pollution. However, the Mississippi Air and Water Pollution Commission, at its first meeting, August 12, 1966, designated the State Board of Health as the agency to enforce - under the Commission's direction - rules, orders, and regulations of the Commission insofar as they pertain to municipal pollution. The delegation of power to enforce the rules of the Air and Water Pollution Commission expires July 1, 1968.

V. STATE GAME AND FISH COMMISSION  
(Sections 5841 - 5931.04)

Authority

The Commission has authority to make rules and regulations, inaugurate studies, and establish services believed necessary to carry out the purposes of the Game and Fish Act. The Commission has the authority to exercise the right of eminent domain to acquire lands overflowed by construction of dams that it has had built in order to prevent the drying up of such waters. The Commission's authority in regard to water quality control is exercised through the authority delegated to it by the State Air and Water Pollution Control Commission of which the Director of the State Game and Fish Commission is a member. The Air and Water Pollution Control Commission has designated the Game and Fish Commission as the agency to carry out the enforcement of rules of the Pollution Control Commission as they pertain to industrial pollution and to conduct water quality studies as provided for under the Pollution Control Bill. The delegation of the authority to enforce the rules expires July 1, 1968.

Organization

The Commission is composed of eleven members who are appointed by the Governor. Six members serve terms concurrent with the Governor and the remaining five are appointed for terms of six years.

The Governor appoints the chairman, vice-chairman, and director of conservation. The director is responsible for execution of the Commission's policies. With the consent of the Commission, he selects a staff in order to accomplish the purposes of the Commission. The director appoints a deputy director from among the Commission's department heads. He appoints a chief law enforcement officer whose main responsibility is supervision of all game wardens and who also directs enforcement of provisions of all the State's game and fish laws and all rules and regulations of the Commission. With the advice and consent of the Commission, the state director appoints a public relations officer who has the responsibility of making information available to the public concerning rules, regulations, and policies of the Commission.

Programs and Activities

The State Game and Fish Commission's major activities pertain to fish and wildlife restoration and management. The Commission's regular bi-monthly publication, Mississippi Game and Fish, keeps the public informed about the programs, projects, and goals of the Commission. The Commission conducts countless surveys in regard to game and fish problem areas, and makes water pollution studies. The

Commission assists pond owners in management of their ponds and conducts selective fish kills. It also assists individuals in entering commercial fish operations. The Commission cooperates with the Mississippi Park Commission and the Bureau of Outdoor Recreation on projects which they undertake. As indicated above, the Commission enforces the rules and regulations promulgated by the State Air and Water Pollution Control Commission.

The Commission owns and manages seven lakes in the Pascagoula River Basin. See Exhibit F for location of these lakes. Their names and locations, by counties, are as follows:

<u>Name</u>	<u>County</u>
1. Tom Bailey Lake	Lauderdale
2. Claude Bennett Lake	Jasper
3. Ross R. Barnett	Smith
4. Mike Conner Lake	Covington
5. Bogue Homo Lake	Jones
6. Lakeland Park	Wayne
7. Perry County Lake	Perry



## VI. MISSISSIPPI PARK SYSTEM (Sections 5957.01 - 5974.16)

### Authority

The new Mississippi Park System was created in 1964 by Senate Bill Number 1944. The System has full jurisdiction over the State Parks in Mississippi. It cooperates with the Agricultural and Industrial Board to advertise the State Park facilities and with other State Departments and Commissions in the furtherance of facilities available for outdoor recreation and preservation of historic sites. The System makes and enforces rules and regulations governing the use and occupancy of the lands, waters, and facilities of State Parks, and makes reasonable charges for use of such facilities.

### Organization

The Mississippi Park System is composed of seven directors who are appointed by the Governor. One is selected from each of the six congressional districts in the State and one is selected from the state at large. A comptroller, business director, and chief of maintenance and construction are included on the staff.

### Programs and Activities

A primary function of the System is obtaining, developing, and protecting natural park land and water facilities. The Park System is actively engaged in modernizing and renovating older park facilities expanding tent and trailer camping areas, and planning new areas to be developed.

The following parks, which are located in the Pat Harrison Waterway District, are undergoing repairs and construction.

Clarkco State Park, Quitman, Mississippi  
Paul B. Johnson State Park, Hattiesburg, Mississippi  
Magnolia State Park, Ocean Springs, Mississippi

Ship Island State Park, offshore, Biloxi, Mississippi, is also under the management of the System; however, it has received extensive hurricane damage and is in an inactive state.

VII. MISSISSIPPI RESEARCH AND DEVELOPMENT CENTER  
(Sections 8946.01 - 8946.33)

Authority

The Center was brought into existence by The Mississippi Research and Development Act of 1964. The purpose of the Center is to provide advice and guidance in regard to research requirements to all agencies, institutions, and organizations pursuing economic development.

Organization

The Center is under the management of the Board of Trustees of Institutions of Higher Learning. The Board is responsible for general administration of the Center and its budgeting. An Advisory Council guides the operation of the Center. The Director of the Center is appointed by the Board and he, in turn, selects the Center's staff.

Programs and Activities

The Research and Development Center, in cooperation with United States Geological Survey, conducted a study entitled "Water for Industrial Development in Forrest, Greene, Jones, Perry, and Wayne Counties" which was completed in June 1966. A cooperative program with the Mississippi Board of Water Commissioners and Harrison County made possible field pumping tests for approximately fifty selected aquifers in the State in fiscal year 1966. Most of the tests were conducted in the Pascagoula River Basin.

The Center assists in finding financing for development projects, makes analysis of economic advantages or impact of specific water development projects, and identifies industrial sites in the river basins.

VIII. MISSISSIPPI FORESTRY COMMISSION  
(Sections 6022-6046.55)

Authority

The Mississippi Forestry Commission is the legally constituted state forestry agency in Mississippi. It has powers and duties as follows:

- (1) to take such action as necessary to prevent, control, and extinguish forest fires;
- (2) to assist and cooperate with other agencies in the preparation and execution of plans for the protection and management of timber lands;
- (3) to encourage public interest in forestry through an information and education program; and
- (4) to assist private landowners in the protection and management of their timberlands, including the growing and distributing of tree seedlings, and providing technical assistance in all phases of forestry.

Organization

The Commission is composed of seven citizens of the State who are appointed by the Governor for staggered terms. The Governor serves as chairman. A State Forester, appointed by the Commission is charged with direction and control of all matters pertaining to forestry, as authorized by law.

Programs and Activities

Programs of the Forestry Commission are designed to encourage better management of forest lands; to preserve and protect the forest resources and the continuous growth of timber; to insure an adequate supply of forest products at all times; to prevent soil erosion and consequent silting of stream channels and reservoirs; to protect watersheds and reservoirs; to reduce forest fire hazards; to insure an adequate supply of habitats for wildlife; to insure adequate facilities for outdoor recreation for public use; to preserve scenic beauty and to encourage private ownership, economic management, and scientific development of forest lands.

The Commission carries on an expansive program of encouraging public interest in forestry by means of the press, radio, television, periodicals, bulletins and leaflets, lectures, and personal contacts. The Commission cooperates with private timber owners in providing

assistance in the protection and management of forest lands and in the marketing of forest products. It instigates technical studies relating to forest conditions and management as deemed proper by the Commission.

Several forest lands are managed by the Commission in the Pat Harrison Waterway District. These lands include those of the Ellisville State School, the University of Southern Mississippi, Kurtz State Forest, certain State Parks, Camp Shelby, and sixteenth section forest lands in some counties.



## IX. WATER RESOURCES RESEARCH INSTITUTE

### Authority

The establishment of a Water Resources Research Institute in each of the United States and in Puerto Rico was authorized in July 1964 by Public Law 88-379. In November 1964 the Governor designated Mississippi to establish and carry on the work of a Water Resources Institute to conduct research investigations and experiments of basic and practical nature in relation to water resources.

### Organization

The Board of Managers consists of the Director of the Agricultural Experiment Station, the Director of the Engineering and Industrial Research Station, the Director of the Bureau of Business and Economic Research, the Director of Biological and Physical Science Research Center and the Director of the Social Science Research Center. The Board establishes policy for the Institute. The Executive Director serves as secretary - without a vote. Chairman of the Board is the University's Coordinator of Research. The Executive Director reports to the Coordinator of Research, regarding administrative duties and responsibilities. The Coordinator of Research reports to the President of the University who in turn reports to the Board of Trustees.

An Advisory Committee, consisting of approximately fifteen representatives of state and federal agencies advises the Board and assists in coordinating the programs of the Institute with other agencies performing water research in the State.

### Programs and Activities

At the beginning of the 1966 fiscal year, nine projects were in progress. Of the nine, one was being conducted at the University of Mississippi. Listed below are the projects, together with the departments conducting the studies.

<u>Project</u>	<u>Department</u>
Precipitation Probabilities in Mississippi	Agricultural Engineering, Mississippi State University
Water Resource Characteristics of the Town Creek Watershed as an Attraction For Industrial Users	Bureau of Business and Economic Research, Mississippi State University
Factors Affecting the Removal of Iron and Manganese from Ground Water	Civil Engineering, Mississippi State University

<u>Project</u>	<u>Department</u>
Decontamination of Low-Level Radioactive Wastes with Yazoo and Zilpha Clays	Civil Engineering, Missis- sippi State University
Ground-water Regulation in the Coastal Flatwoods of Mississippi	Forestry, Mississippi State Universtiy
Law of Water Resources of the State of Mississippi	School of Law (University of Mississippi)
The Effect of a New High Temperature Sewage Stabiliza- tion Process on Enteric Pathogens and Viruses	Microbiology, Mississippi State University
Local Action and Acceptance of Watershed Development	Social Science Research Center, Mississippi State University
An Inventory and Study of Beaver Impounded Water in Mississippi	Zoology, Mississippi State University

The papers listed below were published in fiscal 1966 or presented at conferences.

"Study Shows Rainfall Probabilities," McWhorter and Matthes, Mississippi Farm Research, State College, Mississippi, December 1965.

"Investigation of Water Resources in a Small Watershed," Don C. Wilcox, Proceedings, First Annual Meeting of the AWRA, December 1965.

"Iron and Manganese in Mississippi Water Supplies," L. R. Robinson, Jr., Proceedings, Mississippi Water Resources Conference, April 1966.

"Decontamination of Radioactively Contaminated Water by Slurrying with Yazoo and Zilpha Clays," Goldsmith and Middlebrooks, Proceedings, Mississippi Water Resources Conference, April 1966.

"Some Aspects of Water Balance in the Coastal Flatwoods," W. Frank Miller, Proceedings, Mississippi Water Resource Conference, April 1966.

"Offshore Boundaries," P. H. Williams, Proceedings, Mississippi Water Resources Conference, April 1966.

"The Thermal Destruction of Enteric Microorganisms During High Temperature Aerobic Sewage Treatment," Pabst, Mickelson, Brown, and Tischer, South Central Branch, American Society of Microbiology, Spring Meeting, 1966.

"Aerobic Sewage Stabilization at Elevated Temperatures," Brown, Cook, Mickelson, and Tischer, Proceedings, Mississippi Water Resources Conference, April 1966.

"The Effect of Temperature on the Microflora of Raw Domestic Sewage During Aerobic Treatment," Bostwick, Ladner, Tischer, and Brown, South Central Branch, American Society of Microbiology, Spring Meeting, 1966.

"Community Factors in Watershed Development," Wilkinson and Hughes, Proceedings, Mississippi Water Resources Conference, April 1966.

X. MISSISSIPPI AGRICULTURAL AND INDUSTRIAL BOARD  
(Sections 8936 - 8938.08)

Authority

The Agricultural and Industrial Board has authority to approve or disapprove proposed contracts of political units with manufacturing firms for establishment of industrial enterprises under the Balance Agriculture With Industry program. The Board may contract with qualified firms to make market, operating, and financial feasibility studies. It is authorized to encourage establishment of industrial parks where necessary for the development of municipalities.

Organization

The Board is composed of the Governor, the Lieutenant Governor, the Speaker of the House of Representatives, the Commissioner of Agriculture, the State Chemist, and the State Geologist as ex officio members. Two state senators, two state representatives and twenty-five citizens from the State at large are selected and appointed by the Governor. The Governor appoints a director who may not be a member of the Board. The Director selects, with the approval of the Governor, other necessary assistants.

The Mississippi Marketing Council is a department within the Board. An Associate Director for Agriculture and Forestry Service serves as Secretary of the Council and also serves the Agricultural Industries Department as directed by the Director and Executive Committee of the Board.

Programs and Activities

The Board cooperates with development groups and other agencies in planning and coordinating economic development in the State. It gives assistance to city, county, and regional planning commissions in their local planning problems.

The Board prepares and carries out a comprehensive national advertising program in newspapers, periodicals, and television media covering the economic development of the State. The program includes industrial development, tourist promotion, and marketing promotion for Mississippi-made products.

The Marketing Council helps stimulate development of new markets for Mississippi products and encourages establishment of processing plants to prepare agricultural and forestry raw products for sale to markets in the United States and abroad.



XI. MISSISSIPPI GEOLOGICAL SURVEY BOARD  
(Sections 8954.01 - 8954.10)

Authority

The Mississippi Geological Survey Board is responsible for direction of a geological, economic, and topographical survey of the State of Mississippi. It has authority to cooperate with the United States Geological Survey or other federal agencies. Such cooperative effort may be directed by either of the contracting parties at the discretion of the Board.

Organization

The Board is composed of five members: two geologists, one civil engineer, and two businessmen. All members are appointed by the Governor.

Program and Activities

The Board investigates, maps, and compiles reports upon the water supplies and water power of the State with reference to their application to irrigation, protection from overflow, and other purposes. Its other duties are less pertinent to this appendix. They involve examination and mapping of mineral natural resources and construction materials, as well as the preparation of special reports about the geological and natural resources of the State.

## XII. STATE HIGHWAY COMMISSION (Sections 8014 - 8059.5)

### Authority

The Commission has complete control and supervision with authority and necessary powers to locate, relocate, widen, alter, change, straighten, construct, or reconstruct any and all roads on the State highway system.

### Organization

The Commission consists of three members who are elected in the same manner in which the Governor is elected and for terms of four years. One is from each of the three supreme court districts of the State.

### Programs and Activities

The Commission plans, constructs, maintains, and regulates the roads on the State highway system. In addition to these activities, the Commission provides advice for the several counties on all matters of policy, use of funds, priority of construction, uniform standards for State aid roads, and other related matters. State aid funds are provided to county boards of supervisors for State aid road projects.

Especially pertinent to the State's water resources are the powers of the Commission which enable it to contract with the United States in flood control and drainage projects for alteration, relocation, reconstruction, or abandonment of State highways as this becomes necessary for construction of the projects. The Commission works closely with agencies of the United States and the several water districts in planning projects and reviewing reports prepared by the Corps of Engineers.

XIII. MASTER WATER MANAGEMENT DISTRICTS  
(Sections 5956.101 - 5956.130)

Authority

Master water management districts are empowered to carry out in an orderly manner works of improvement for the purposes of drainage, prevention of floodwater damage, or the conservation, development, utilization, and disposal of water. These powers include the impoundment, diversion, flowage, and distribution of waters for beneficial use. However, the authority of the Districts is limited to plans for works of improvement which have been developed and carried out in cooperation with the Secretary of Agriculture under the provisions of Public Law 566 of the 83rd Congress. Authority of the Districts includes projects for any of the purposes provided for above, which may be developed and carried out by or in cooperation with the United States Government under other laws of the United States.

Organization

Master water management districts are governmental subdivisions and public bodies, corporate and politic. The districts may be organized from the territory of two or more existing drainage or water management districts and/or from territory not included in existing districts upon petition to the Chancery Court by the commissioners of the existing districts and by the landowners of the said other territory.

Five commissioners are appointed by the chancery court for staggered terms of five years each. A president and a secretary are elected from the membership of the commission by the commissioners. The commissions may incur expenses, borrow money, and assess the lands of the district in proportion to the benefits accruing to the lands.

Programs and Activities

In conjunction with the United States Secretary of Agriculture or with the heads of other involved Federal agencies, the Districts develop plans for works improvements for the entire areas of the district, implement the plans, and maintain and administer improvements and facilities constructed.

One master water management district, the Chunky River Master Water Management District, has been organized in the Basin. As shown in Exhibit D, this District is located in Newton and Neshoba Counties.

#### XIV. WATER MANAGEMENT DISTRICTS (Section 4606.7)

Section 4606.7 of the Code provides for designation of drainage districts as Water Management Districts, without affecting the authority, organization, program, or activities of the district.

Three water management districts are located in the Basin. See Exhibit D. The Dry Creek Water Management District is in Covington County. Big Creek Water Management District extends into three counties: Jasper, Smith, and Jones. The Upper Leaf River Water Management District is partly in Smith County and partly in Scott County.



XV. DRAINAGE DISTRICTS  
(Sections 4576 - 4757.03 and 4763 - 4766.03)

Authority

Drainage districts may be organized for the purpose of reclaiming wet and overflowed land for agricultural as well as sanitary purposes. Districts have authority to construct drains and/or erect necessary levees over the land of others or on land acquired by the district for this purpose. Natural drains and water courses may be altered as deemed necessary.

Districts may make assessments on lands in the districts in proportion to benefits received in order to pay for improvements. Bonds may be issued in the total amount of benefits assessed against all real property in the district. Districts may cooperate with, enter into agreements with, and receive financial and other assistance from State agencies and political subdivisions of the State and other organizations created under State laws. Districts are bodies corporate and can sue and be sued. Section 4606.7 of the Code authorizes Drainage Districts to redesignate themselves as Water Management Districts.

Organization

Upon petitions of land owners, drainage districts may be organized with county commissioners or with local commissioners. County commissioners are selected by the board of supervisors. There are three county commissioners; each is selected for a term of six years. Local commissioners are appointed by the Chancery Court. Three are appointed for terms of six years. In 1958 drainage districts were empowered to become known as water management districts (Section 4606.7).

Programs and Activities

Drainage districts develop plans and specifications for all drainage improvements, implement the plans, and maintain the improvements. Only one drainage district, the Sowashee Drainage District near Meridian, Mississippi, is located in the Pascagoula River Basin. Other districts have been designated Water Management Districts. See Exhibit D, a map showing districts organized to develop watersheds in the Pascagoula River Basin.

## XVI. SWAMP LAND DISTRICTS (Sections 4757 - 4757.03)

### Authority

Swamp Land Districts organized prior to the Code of 1930 are allowed to continue operations under provisions of the Code of 1906 and amendments to it. However, no additional swamp land districts may be organized. The districts are to make necessary improvements and to maintain existing drainage channels. Districts have authority to contract and cooperate with agencies of the Federal Government in maintenance of such channels. The board of supervisors has authority to levy an annual tax, not to exceed twenty cents per acre in any one year, upon all lands in the district when this has been recommended by the commissioners of the district.

### Organization

Three commissioners are appointed for four year terms by the board of supervisors in counties where swamp land districts exist and where there are no commissioners now in office. The commissioners manage all the affairs of the district. They have power to do all necessary acts to carry out the intended purposes of the swamp land districts.

### Programs and Activities

Swamp land commissions control and manage the affairs of the districts, make improvements for drainage purposes, and maintain drainage channels. At the present time there are no swamp land districts in the Pascagoula River Basin.

XVII. FLOOD CONTROL DISTRICTS  
(Sections 4767 - 4826.01)

Authority

Flood Control Districts may be organized for the purpose of cooperating with the United States in flood control improvements; reclamation of overflow land, and construction, operation, and maintenance of dams and reservoirs.

Commissioners may exercise the right of eminent domain. They may contract and be contracted with, sue and be sued, plead and be impleaded, exercise the right of taxation, and borrow money and issue notes therefor. Districts are empowered to fix and levy annually an ad valorem tax of not exceeding four mills on the dollar for preliminary expenses and one mill for maintenance. Bonds may be issued for purchase of lands and easements, and alteration of highways. The amount of indebtedness shall not exceed the limits of preliminary expenses.

Organization

Districts are organized by petition to the Chancery Court by the county board of supervisors. The court appoints as commissioners three qualified electors for terms of four years.

Programs and Activities

The Commissioners adopt the plan developed by an agency of the United States for all flood control improvements in the District. In cooperation with the United States the board constructs the planned improvements, and maintains them. The Pascagoula River Basin does not contain a flood control district.

## XVIII. PORT COMMISSIONS (Sections 7546 - 7623)

### Authority

Port Commissions are empowered to act as port wardens and pilot commissioners and to perform any duties pertaining to such powers within their respective municipalities. Commissions may negotiate contracts for improvements and maintenance, for employment of necessary employees, and for lands of the port. They may assist municipalities in establishing industries. Commissions have jurisdiction over the port, including terminals and harbors, passes leading thereto, and all vessels, boats, wharves, common carriers, and public utilities therein. Financing is accomplished through exercise of the powers of the political subdivision that established the port.

### Organization

Harbors may be regulated and managed as ports of entry, county and municipal harbors, or as county ports. Cities of 10,000 or more may acquire sites and establish and operate harbors for small water crafts. Ports of entry have five commissioners. One is appointed by the Governor; one is appointed by the county board of supervisors, and three are appointed by the municipal authorities of the city. County and municipal port commissions have five commissioners. One is appointed by the Governor; two are appointed by the county board of supervisors, and two are appointed by the municipal authorities. County ports are established by county boards of supervisors and are composed of seven resident citizens. Two are appointed by the Governor and five are appointed by the county board of supervisors.

### Programs and Activities

Port commissions plan, construct, maintain, and regulate all port facilities. The Jackson County Port Authority developed, maintains, and operates the only port in the Pat Harrison Waterway District. The port was first organized in March 1956. By 1966 it had a net worth of approximately \$23,000,000. Port facilities include land, a grain elevator, warehouses, and roads and channels at two ports facilities - one at Pascagoula and the other at Bayou Casotte. Both facilities are deep-water harbors with channels maintained at a Federal project depth of thirty-eight feet.

In 1954 there were 286,147 tons of waterborne commerce with four ships calling at the port. During 1965, total waterborne commerce moving through the port amounted to 10,005,696 tons, with 317 ocean-going vessels making calls.



The Jackson Port Authority consists of nine members, five of whom are appointed by the Governor. The Jackson County Port Authority and the Pascagoula Port Commission act jointly in the administration of port affairs.

XIX. STATE SOIL CONSERVATION COMMITTEE  
(Sections 4940 - 4977)

Authority

The Committee has authority to offer assistance to the Commissions of soil conservation districts in the implementation of their programs and to inform the commissioners of activities and experiences of the other districts. The programs of the several soil conservation districts are coordinated by the committee and information concerning activities and programs of the soil conservation districts are disseminated throughout the State by the Committee. The Committee has the authority to encourage the formation of districts in areas where their organization is desirable. These districts consist of any twenty-five owners of land lying within the limits of the territory proposed to be organized. The Committee has the authority to supervise the conduct of an election for three commissioners for each such district.

Organization

The State Committee is composed of the director of the State Extension Service, the director of the State Agricultural Experiment serving ex officiis. The committee may invite the Secretary of Agriculture of the United States of America to appoint one person to serve with the above members. The Committee shall designate its chairman.

The governing body of each district shall consist of five commissioners, elected or appointed as provided. The commissioners shall appoint a chairman. The term of each commissioner shall be three years except that the commissioners who are first appointed shall be designated to serve terms of one and two years, respectively, from the date of their appointment. In order to carry out the purposes of the Soil Conservation and Domestic Allotment Act, enacted by the Congress of the United States, the Mississippi State University is designated as the agency of the State of Mississippi to administer any plan authorized by the act.

Programs and Activities

The Commissioners in the soil conservation districts conduct research; institute demonstrational programs; carry out control and preventative measures within the district; furnish financial aid to carry on erosion-control and prevention operations; obtain land for income purposes; make available material and equipment to operators within the district; construct, improve, maintain such structures as necessary for performance of any operations authorized in the Act; develop plans for conservation of soil resources; and take over and administer any soil-conservation, erosion-control, or erosion-prevention projects located within its boundaries. The commissioners formulate regulations governing the use of lands in conserving soil and soil resources and preventing and controlling soil erosion.

SECTION IV

RECOMMENDATION

FOR

COMPREHENSIVE STUDY OF THE STATE STATUTES

AND THE ROLES OF THE SEVERAL ORGANIZATIONS

AND AGENCIES

## RECOMMENDATIONS

The laws of the State afford an adequate framework for development of the water and related land resources of the Pascagoula River Basin. However, the regulations have been developed over a century through efforts concentrated first upon one pressing need then upon another. Some outmoded laws have been improved through amendments; however, additional improvement may be needed. A variety of organizational structures has been provided with some overlap among their authorities and responsibilities. As needs have changed, new agencies have been established but not all outmoded agencies have been abolished.

The Comprehensive Study has as its primary objective the development of water resources through the established agencies. A cooperative effort by all interested agencies to obtain an objective study and analysis of all statutes, organizations and agencies that have impact upon the development of water resources could result in changes that would lead to their more efficient and economical development.



# EXHIBIT A

## MISSISSIPPI STATUTE REFERENCES

<u>Water Rights</u>	<u>Section</u>
Doctrine	5956.01 - 5956.04
Surface Water	2210, 2211, 2414, 2415 3374.122, 3374.130 4576 - 4757.03, 4763 - 4766.03, 4767 - 4826.01 5956.04, 5956.05, 5956.06, 5956.07, 5956.16, 5956.20, 5956.23, 5956.101
Ground Water	
Access to Lakes and Streams	4791
Diversion Between Basins	3374.122, 4739, 4744, 4803, 4803.01 5956.23
Eminent Domain	2749 - 2782, 2995.5, 4153 4593, 4721 4766.01, 4766.02, 4767, 4767.3, 4776, 4794, 5844 5956.108, 5956.135 5956.180, 5956.227 5956.257, 5965, 6037, 6073, 7624, 8503
Regulatory Authority	
For Drilling or Abandoning Wells	House Bill No. 887
For Impoundments	4606.5, 4793, 4803 5956.04, 5956.20
For Channel Encroachments	81, 2414, 2778, 2780, 3374.134, 4803, 5956.16, 5956.108, 5956.135, 5956.180, 5956.227, 5956.257
For Development in Flood Plains	4576-4757.03, 4767-4826.01, 5956.16, 5956.108, 5956.135, 5956.180, 5956.227, 5956.257

# EXHIBIT A (Cont'd)

For Discharge of Waste	Senate Bill Number 1955
For Construction of Public Water Supply	3374.130, 5956.135, 5956.180, 5956.257
Water Quality	
Waste Treatment	Senate Bill Number 1955 2414, 2415, 5956.04, 6132.10
Flow Regulation	5956.04
Administrative Structure and Role of State Agencies	
Pat Harrison Waterway District	5956.171 - 5956.196
State Air and Water Pollution Control Commission	Senate Bill Number 1955, Regular Session, 1966
State Board of Health	7024 - 7096.01
State Game and Fish Commission	5841 - 5931.04
Mississippi Park System	5957.01 - 5974.16
Mississippi Research and Development Center	8946.01 - 8946.33
Mississippi Forestry Commission	6022 - 6046.55
Water Resources Research Institute	Public Law 88-379
Mississippi Agricultural and Industrial Board	8936 - 8938.08
Mississippi Geological Survey Board	8954.01 - 8954.10
State Highway Commission	8014 - 8059.5
Master Water Management Districts	5956.101 - 5956.130

EXHIBIT A (Cont'd)

Water Management Districts	4606.7
Drainage Districts	4576 - 5757.03, 4763 - 4766.03
Swamp Land Districts	4757 - 4757.03
Flood Control Districts	4767 - 4826.01
Port Commissions	7546 - 7623
State Soil Conservation Committee	4940 - 4977

EXHIBIT B

BY-LAWS

of the

PAT HARRISON WATERWAY DISTRICT

ARTICLE I

NAME: The name of this organization shall be the Pat Harrison Waterway District.

ARTICLE II

OBJECT: The object of such District shall be for the purpose of making engineering surveys and studies of all of the rivers and their tributaries in the counties included in the Pat Harrison Waterway District in cooperation with the Federal Government and appropriate state agencies, and in particular the Pascagoula, Leaf, the Chickasawhay Rivers, Tallahala Creek, the Chunky Creek, and their tributaries, and all other streams within the Pat Harrison Waterway District. The further purpose of such District is to control flooding, provide navigation, prevent pollution of streams, provide industrial water supply, provide recreational water storage; and to provide irrigation and agricultural water storage; and for all other related purposes and in accordance with the provisions of the act creating such District.

ARTICLE III

MEMBERSHIP: The District shall be composed of the counties of Clarke, Forrest, George, Greene, Jackson, Jones, Lauderdale, Perry, Smith, Stone, Wayne, Newton, Jasper, Covington, and Lamar. Each of such counties shall be represented by a Director appointed by the Governor; and in addition thereto, there shall be three Directors at large, who shall be appointed for the period of four (4) years in accordance with the provisions of the act creating such District and amendments thereto.

ARTICLE IV

OFFICERS: The officers of the District shall be composed of a President, a Vice-President, a Secretary, and a Treasurer. Such officers shall be selected from the Board of Directors, with the exception of the Secretary and Treasurer, who may or may not be members of the Board of Directors. The office of Secretary and Treasurer may be combined.



EXHIBIT B (Cont'd)

ARTICLE V

FISCAL YEAR: The fiscal year of the District shall be from July 1 of each year until and including the following June 30.

ARTICLE VI

MEETINGS: Monthly meetings of the Directors shall be held at 7:00 p.m. on the fourth Thursday of each month at a place to be designated by the Board of Directors for each such meeting. Special meetings of the Board of Directors may be called by the President or any three members thereof upon the giving of written notice to each Director for a minimum of seventy-two (72) hours preceding such meeting and by giving such Director notice of the matters to be considered at such special meeting. A majority of the Board of Directors shall constitute a quorum at any meeting of such Board of Directors.

ARTICLE VII

LOCATION OF OFFICE: The office of the Pat Harrison Waterway District shall be located at Hattiesburg, Forrest County, Mississippi.

ARTICLE VIII

FUNDS: All funds belonging to the District shall be deposited in a depository qualifying under the provisions of the act creating such District, to be selected by the Board of Directors of the District.

ARTICLE IX

EXECUTIVE DIRECTOR: The Board of Directors shall employ an Executive Director who shall, at the discretion of the Board of Directors, have the power to employ and discharge employees. The duties and responsibilities of such Executive Director shall be those prescribed by the Board of Directors. The salary of such Executive Director shall be determined by the Board of Directors, commensurate with the qualifications, duties, and responsibilities of such Executive Director.

ARTICLE X

EXPENDITURES OF FUNDS: Expenditure or obligation of funds of the District shall be made only on the authorization of the Board of Directors. All withdrawals shall be made by check signed by the Executive Director of the District and countersigned by the Treasurer and/or such other Director of said District who shall be authorized to countersign such checks by the Board of Directors.

EXHIBIT B (Cont'd)

ARTICLE XI

COMMITTEES: The district shall have the following standing committees, appointed for a period of one (1) year, and whose duties shall be as follows, to wit:

Finance Committee: A Finance Committee composed of five directors to be appointed by the President, whose duty it shall be to make all recommendations to the Board concerning matters of budget, financial statements, accounting, bond sales, receipts, expenditures, etc.

Works Project Committee: The Works Project Committee composed of seven directors to be appointed by the President whose duty it shall be to receive all proposed projects to be considered by the District and to cause such study of the same necessary for reporting and recommending the same to the Board for action thereon and from time to time shall recommend priorities for said projects and to report to the Board the status of authorized projects.

Policy Committee: The Policy Committee shall recommend to the Board policy on all matters not specifically provided for in the duties of other standing committees.

Special Committees: The President shall be authorized to appoint such special or temporary committees as may be necessary for the fulfillment of the purposes of the District.

ARTICLE XII

BUDGET: Subsequent to recommendations of the Finance Committee, the Directors shall adopt a budget for each fiscal year and each biennium. Such budget shall reflect all expected receipts and expenditures of the District for the ensuing fiscal year. No expenditures shall be made in excess of the budget and/or each item of such budget. After such budget has been adopted, the same may be amended during the current fiscal year at any regular or special meeting called for that purpose.

ARTICLE XIII

AMENDMENTS: The By-laws of the Pat Harrison Waterway District shall not be altered or amended except upon a two-thirds (2/3rds) vote of the Directors present at any regular or special meeting called for such purpose.

EXHIBIT B (Cont'd)

Notice of any proposed amendment shall be given to each Director at least ten (10) days in advance of any meeting at which time amendment is to be voted upon.

Revised: August 26, 1965

EXHIBIT C<sup>1</sup>

GENERAL POLICY OF PAT HARRISON WATERWAY  
DISTRICT PERTAINING TO PUBLIC RESERVOIRS<sup>2</sup>

I.

PRE-CONSTRUCTION REQUIREMENTS

- A. Every public reservoir to be constructed shall have a local co-sponsor. A co-sponsor shall be a legal entity, preferably a political sub-division.
- B. Co-sponsor shall request construction of any public reservoir and the request shall comprise at least the following, to-wit:
  - 1. Needs of Reservoir (Flood Control, Recreation, Water Supply, etc.)
  - 2. Show public necessity.
  - 3. Approximate size and cost of project.
    - (a) Land cost (per acre average)
    - (b) Construction cost of dam
    - (c) Clearing cost (per acre average)
    - (d) Other improvement cost (itemized)
  - 4. Area to Serve - Miles around reservoir and population (show accessibility of area to be served).
  - 5. Engineer statement stating reservoir is feasible from an engineering standpoint (that reservoir will hold water, etc.)
  - 6. Resolution from local governing body or bodies stating there is public need and that it will be valuable asset to the area to be served and recommending construction of the project.
  - 7. Order of co-sponsor stating its willingness to enter into a cooperation agreement with Pat Harrison Waterway District.
- C. Any Pat Harrison Waterway Director representing a County wherein a project is to be constructed shall have the right to require a public hearing to be held in the County that he represents.
- D. The local co-sponsor will acquire an option, in the name of the Pat Harrison Waterway District, on all property required by the Pat Harrison Waterway District for the public reservoir at a price not to exceed the appraised price placed upon the property by the Pat Harrison Waterway District appraiser. However, any

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<sup>1</sup>Extracted from the minutes of the Board of Directors of the Pat Harrison Waterway District.

<sup>2</sup>Final control of all developments constructed on National Forest lands under permit rests with the Forest Service. The details of responsibilities and authorities are determined and made part of the permit specifications at the time of project authorization.



## EXHIBIT C (Cont'd)

condemnations of property required will be done by the Pat Harrison Waterway District. It being the intent of this provision for the local co-sponsor to assert every effort possible to acquire the property voluntarily. However, if they cannot, then the Pat Harrison Waterway District will ascertain whether or not condemnation proceedings are necessary.

### II.

#### CONSTRUCTION OF PUBLIC RESERVOIR

- A. All contracts will be let by the Pat Harrison Waterway District.
- B. Any professional services and workmen to construct the reservoir used will be hired locally upon all factors being equal, taking into consideration quality, price, etc. The Pat Harrison Waterway District will have exclusive control of the project until completion, and will have control of all plans and specifications that are used for any construction or improvements.

### III.

#### USE OF RESERVOIR

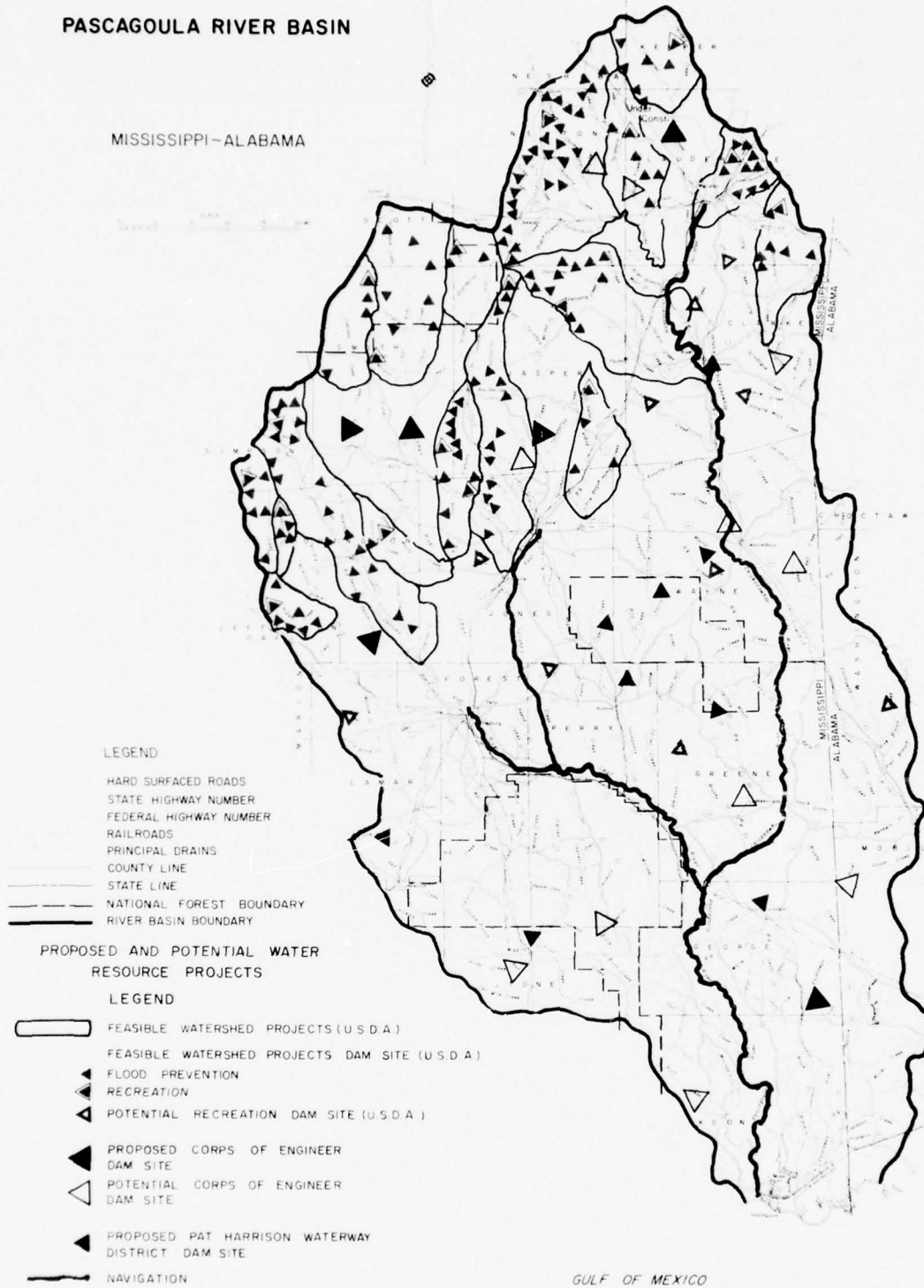
- A. After completion of the Reservoir and all the improvements to be located thereon, the District may lease the reservoir and facilities to a co-sponsor or some local legal entity for a long-term wherein the District would retain or receive a percentage of the gross revenues taken in from any and all sources from the use of the reservoir or its facilities (This percentage will be ascertained on each project). The District would reserve the rights to approve any and all charges and establish a minimum and maximum charge on use of all reservoirs and its facilities.
- B. The local co-sponsor shall have exclusive control subject to the lease or contract provisions. The District will reserve the right to establish the amount of public park space and recreation facilities to be constructed, and set aside for public use. (The District will take into consideration the size of the reservoir, population of the Community, the number of persons who will probably use the reservoir when establishing public park area and facilities).
- C. The Pat Harrison Waterway District will have exclusive right to control the water level and right to drain or refill the reservoir or facilities.

- D. The Pat Harrison Waterway District will have exclusive control over all sanitation, drainage and dumping of any substance into the reservoir. It will be the policy of the Pat Harrison Waterway District to work with other Federal and State agencies, and sponsor any and all projects that will be helpful to the Basin.

# EXHIBIT D

## PASCAGOULA RIVER BASIN

MISSISSIPPI-ALABAMA



### LEGEND

- HARD SURFACED ROADS
- STATE HIGHWAY NUMBER
- FEDERAL HIGHWAY NUMBER
- RAILROADS
- PRINCIPAL DRAINS
- COUNTY LINE
- STATE LINE
- NATIONAL FOREST BOUNDARY
- RIVER BASIN BOUNDARY

### PROPOSED AND POTENTIAL WATER RESOURCE PROJECTS

#### LEGEND

- ◻ FEASIBLE WATERSHED PROJECTS (U.S.D.A.)
- ◻ FEASIBLE WATERSHED PROJECTS DAM SITE (U.S.D.A.)
- ▲ FLOOD PREVENTION
- ▲ RECREATION
- ▲ POTENTIAL RECREATION DAM SITE (U.S.D.A.)
- ▲ PROPOSED CORPS OF ENGINEER DAM SITE
- ◻ POTENTIAL CORPS OF ENGINEER DAM SITE
- ▲ PROPOSED PAT HARRISON WATERWAY DISTRICT DAM SITE
- NAVIGATION

GULF OF MEXICO

## EXHIBIT E

### TEMPORARY MINIMUM STANDARDS APPLICABLE TO ALL SURFACE WATERS IN THE STATE OF MISSISSIPPI

Until such time as Water Quality Standards can be established in compliance with the Federal Water Quality Act of 1965 (PL-234) and Mississippi Senate Bill 1955, enacted during the 1966 Regular Session, the following standards shall be applicable to the surface waters of the State of Mississippi.

#### GENERAL CONDITIONS

1. It is the intent of the Mississippi Air and Water Pollution Control Commission that pollution of waters of the State shall be prevented, eliminated or reduced to acceptable levels to protect the public health or welfare and enhance the quality of water to insure their value for public water supplies, propagation of fish and wildlife, recreational purposes, agricultural, industrial, and other legitimate uses.
2. The limiting values of water quality herein described shall be measured by the Commission in waters under consideration as determined by good sanitary engineering practice and analyzed in accordance with latest edition of "Standard Methods for the Examination of Water and Wastewater" or other methods acceptable to the Commission.
3. In cognizance of the fact that certain waters of the State may not fall within desired or prescribed limitations as outlined, the Commission may authorize exceptions to these limits upon presentation of good and sufficient evidence of intent to comply to the extent practical or technically feasible. In no case shall it be permissible to deposit or introduce materials in waters of the State which will cause impairment of the reasonable or legitimate use of said waters.

#### SPECIFIC CRITERIA

1. pH.

The pH of receiving waters shall not be caused to vary more than one (1.0) unit above or below normal pH of the waters and lower value shall be not less than six (6.0) and upper value not more than eight and one-half (8.5). In cases where pH may be, due to natural background, outside limits stated above, approval of the Commission shall be secured prior to introducing such materials in waters of the State.



2. Dissolved Oxygen.

Dissolved oxygen shall not be depressed or decreased below four (4.0) mg/l unless information available to the Commission indicates normal background dissolved oxygen content of lower value. In such cases lower limits may be utilized after approval by the Commission.

3. Temperature.

Temperature of waters shall not be increased more than ten percent (10%), after reasonable mixing, above the natural prevailing background temperatures.

4. Toxic Substances.

Toxic substances shall not exceed one-tenth (1/10) of the 48-hour median tolerance limit. Bio-assay determinations shall be made in accord with latest edition of "Standard Method for Examination of Water and Waste-water" or other acceptable biological methods.

5. Taste and Odor Producing Substances.

Taste and odor producing substances discharged shall be limited to concentrations in the stream that will not interfere with the reasonable use of the water.

6. Oil and Grease

Oil and grease shall not exceed fifteen (15) mg/l.

7. Dissolved Solids.

Dissolved solids shall not exceed five hundred (500) mg/l as a monthly average or exceed one thousand (1,000) mg/l at any time.

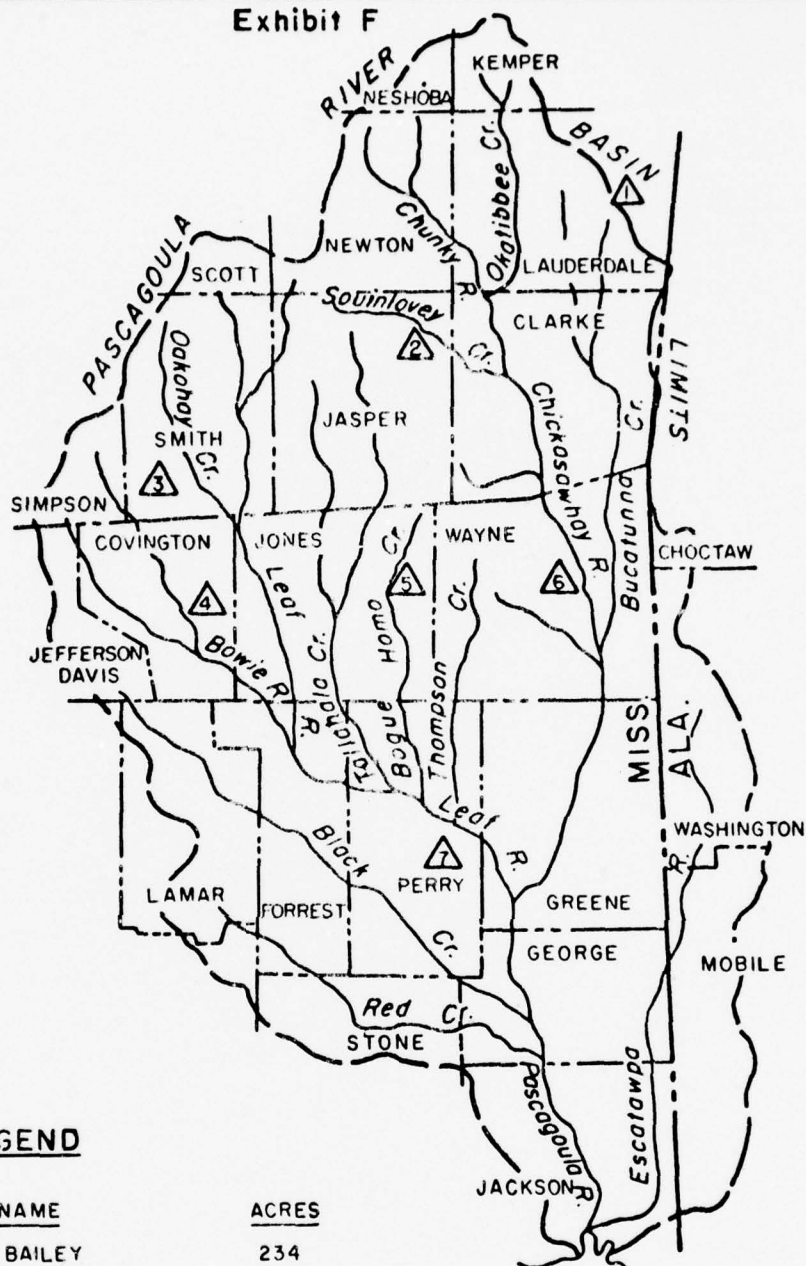
8. Chloride (CL<sup>-</sup>).

Chloride shall not exceed two hundred and fifty (250) mg/l in streams considered to be fresh water streams; in other waters of brackish or saline nature the chloride content shall not be increased more than ten percent (10%) above normal background chloride levels.

9. Phenols.

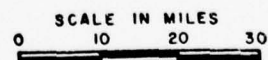
Phenol concentration of waters shall not be caused to exceed 0.001 mg/l for waters used for public water supplies or 0.005 mg/l in waters not used for public water supplies.

# Exhibit F



## LEGEND

SITE	NAME	ACRES
1.	TOM BAILEY	234
2.	CLAUDE BENNETT	71
3.	ROSS BARNETT	87
4.	MIKE CONNER	88
5.	BOGUE HOMO	1,200
6.	LAKELAND PARK	12
7.	PERRY COUNTY	125



PASCAGOULA RIVER COMPREHENSIVE BASIN STUDY  
LAKES OWNED BY MISSISSIPPI  
GAME AND FISH COMMISSION

PART B

STATE OF ALABAMA

STATE OF ALABAMA  
CONSTITUTIONAL PROVISIONS, LAWS,  
POLICIES AND PROGRAMS PERTAINING  
TO WATER AND WATER COURSES

BACKGROUND AND CONSTITUTIONAL PROVISIONS:

Alabama was admitted as the twenty-second state in the Federal Union in 1819. The 15th Congress enacted legislation which provided certain conditions which the inhabitants of Alabama would have to adopt and place in their State Constitution for admittance to the Union (Vol. 3, 15th Congress. Sess II, Ch. 47, 1819). Among these conditions was a provision "...that all navigable waters within the said state shall forever remain public highways, free to the citizens of said state and of the United States...". This condition was met when the people of Alabama adopted and placed in their first constitution language to this effect. The Alabama Supreme Court in Doe vs. Files held that this section constituted a dedication of the navigable waters of this state to the public (3 Ala. 47). From the formation of the State it has been recognized by the courts of the State that Alabama's navigable waters are public thoroughfares. See Harold vs. Jones, 86 Ala. 274, 5 So. 438.

The major problem in dealing with this subject has been the legal method by which it can be ascertained whether or not a stream is navigable. The courts of the State have used many different methods to decide this question. In Walker vs. Allen, 72 Ala. 456, it was held that the test of navigability as applied to "navigable waters" is the capability of being used for useful purposes of navigation such as trade and travel in the usual and ordinary mode and not to the extent of such use. In State vs. Bell, 5 Port. 365, it was held that to make a navigable stream three circumstances must occur: The stream must have sufficient width, sufficient depth and a freedom from insurmountable obstructions. In general, the courts have held that all waters of the State subject to the ebb and flow of the tide are, in effect, navigable. See Morrison vs. Coleman, 87 Ala. 655, 6 So. 374. It was further held in Tallassee Falls Manuf. Co. vs. State, 13 Ala. App. 623, 68 So. 805, that it was the declared policy of the State to regard as navigable all rivers reported to be navigable by the United States surveyors. In Ellis vs. Carey, 30 Ala. 725, a further test of navigability is the fact of whether or not the Legislature had recognized a particular stream as a navigable stream.

There are many other cases dealing with this subject in Alabama and from said cases and those cited above, it may be readily ascertained that Alabama law governing this subject is at best extremely ambiguous.



#### OWNERSHIP OF BOTTOMS OF WATERS AND WATERCOURSES:

In general, the beds of all navigable waters are owned by the sovereign State, U. S. vs. Turner 70 S. Ct. 92, 338 U. S. 851, also City of Mobile vs. Eslava, 9 Port. 577, 70 S. Ct. 92, 388 U. S. 851. Such ownership, however, is in many particulars difficult to define, both in relation to the above definitions of navigable streams as well as establishing the limit of such ownership after the stream has been determined to be navigable. In other words, at what point on the bank of the stream does State ownership end and the riparian owners' rights begin. It has never been firmly determined in this State except as to tidal waters where the State owns to the ordinary high tide mark (see Bulo vs. New Orleans M. & T. R. Co., 55 Ala. 480) whether or not the State owns to the mean low water mark, the mean water mark, or the mean high water mark. As the Federal Government retains to itself the right to regulate commerce and navigation in all navigable streams, it would appear that the most sensible definition of State ownership of the bottoms would coincide and follow the Federal right of regulation of commerce. This right of regulation covers any part of the navigable streams ordinarily used for commerce. Or, in other words, the normal commercial use of the waters of the stream which would be to the mean high water mark.

Many additional problems are raised by the damming up of such navigable streams by various authorities - State, Federal and private. The most immediate and obvious question when this occurs is whether or not the State's ownership expands to include the new navigable bottoms which are created by the damming up of streams.

#### RIPARIAN RIGHTS:

In those streams and water bodies of the State which are not navigable, the riparian owners own to the middle of the stream or water body, subject to the State's single right to control and regulate fish and fishing therein.

Title 38, Section 107, Code of Alabama 1958, Recompiled, provides a penalty for any person who dams up or otherwise obstructs a navigable watercourse. In Sullivan vs. Spotswood, 82 Ala. 163, 2 So. 716, the Supreme Court held that this included the erection of booms which would obstruct or peril navigation. In Oliver vs. State, 86 Ala. 88, 5 So. 653, the Supreme Court held that no prescriptive right to maintain or continue an obstruction in a navigable stream can arise.

The right of a riparian owner on navigable waters to obtain access thereto exists only as a way of necessity to reach navigation. U. S. vs. Turner, 175 Fed. 2d 644.

#### WATER CONSERVANCY DISTRICTS:

Alabama law provides for watershed conservancy districts (Title 2, Section 670(1)-670(7)). These districts presently are without means for raising necessary monies to perform the needed functions of the districts; however, a constitutional amendment was recently submitted to the people of Alabama which would provide power to such districts to issue bonds and obtain financing. This amendment has passed; however, the administrative machinery for its effectiveness has not been provided for. The conservancy districts are given the power of eminent domain for the specific purposes of conservancy work.

The 1965 Legislature created a position within the Department of Conservation to be known as the Director of Irrigation.

#### STATE GOVERNMENTAL AGENCIES:

The regulation and ownership of waters and water bottoms throughout the State is mainly vested in three departments of the State government as follows:

(a) The Department of Conservation is vested with the management, which includes leasing and sale of sand and gravel, etc., of the bottoms of all navigable streams throughout the State with certain minor exceptions. See Act No. 158, Sec. 4, 1956 First Ex. Sess. and also Chapters 5 and 6 of Title 8, Code of Alabama Recompiled 1958. The Department of Conservation also has considerable regulatory power through its administration of the laws and regulations pertaining to fish and seafoods, which laws and regulations are administered by the Division of Game and Fish and Division of Seafoods, respectively. These laws may be found in Code of Alabama, Title 8.

(b) Pollution and health matters regarding Alabama's streams are primarily administered by the Department of Health and the Water Improvement Commission. A copy of the Commission's power and authority is attached hereto.

(c) The building of ports and the control of docks and wharves in the public streams are under the jurisdiction of the State Docks Department.

#### DEVELOPMENT OF PASCAGOULA RIVER WATERSHED IN ALABAMA:

The Escatawpa River, a tributary of the Pascagoula River originates in Southwest Washington County, Alabama, and flows in a Southwesterly direction through Northwest Mobile County, and enters the State of Mississippi in Section 19, T2S, R4W. In addition to this river a number of its tributaries originate within the State of Alabama, enter into the State of Mississippi, joining said river within that State.

In 1964 the State of Alabama constructed the Emmett Wood State Public Fishing Lake containing 85.6 water acres in Section 35, T8N, R4W on the upper reaches of the Escatawpa River in Washington County. This lake, as the name implies, provides fishing and related water recreation.

Located on Big Creek, a tributary of the Escatawpa River which flows into the State of Mississippi before joining with said river is a 3,600 acre lake constructed as a municipal water supply source for the City of Mobile. This lake is located in Townships 3 and 4 South and Ranges 3 and 4 West, and in addition to its municipal water supply is used extensively for fishing and other water related recreation.

The proposed Harleston Reservoir of the Escatawpa River which will impound several thousand acres within the State of Alabama, will offer additional water recreation. Studies to determine potential fish and wildlife recreation on the area will be continued in close cooperation with the State of Mississippi.

It is possible that a reciprocal agreement between the State of Mississippi and the State of Alabama relating to hunting, fishing and recreation on the Harleston Reservoir may be necessary for the orderly management of these outdoor resources.

Approved August 26, 1965  
Time: 6:15 P.M.

Act No. 574

H.132—McCorquodale, Carr, Cates, Burns,  
Nabors, Powell, Slate, Owens,  
Downing, Tuck, Ingram, Wood,  
Edington, Davis, Campbell  
(Jackson), Hawkins, Branyon,  
Heflin, Stenbridge, Cooper,  
Scurlock, Snell, Meade, Jones  
(Monroe), McDermot, Daniel,  
Collins (Mobile), Pierce, Glass,  
Owen, Edwards (Lowndes),  
Young, Casey, Moore, Dominick,  
Avery, Posey, Smith, Jones  
(Covington), Sullivan, Bailes,  
Boston, Reynolds, Teel

#### AN ACT

To provide further for water pollution control, establishing a new Water Improvement Commission and prescribing its jurisdiction, powers and duties, providing for enforcement of the Act and rules, regulations, and orders of the Commission, prescribing penalties and repealing Act No. 523, Regular Session 1947 (Gen. Act 1947, p. 379) as amended.

Be It Enacted by the Legislature of Alabama:

Section 1. Purpose: The improvement and conservation of the ground and surface waters of the State of Alabama is of utmost importance. The existing water conditions of the State and the right of municipalities, industries and individuals to the reasonable use of such waters so as to promote the continued growth and development of the State, in industry, agriculture, health, recreation and conservation of natural resources is recognized.

Section 2. Definitions. When used in this Act the terms defined shall have the meanings here ascribed to them unless it clearly appears from the context that some other meaning is indicated.

"Commission" means the Water Improvement Commission; and "member" means a member of said Commission.

"Waters" means all waters of any river, stream, watercourse, pond, lake, coastal, ground or surface water, wholly or partially within the State.

"Sewage" means water-carried human wastes from residences, buildings, industrial establishments or other places, together with such ground, surface, storm or other waters as may be present.



"Industrial wastes" means liquid or other wastes resulting from any process of industry, manufacture, trade or business or from the development of any natural resources.

"Other wastes" means decayed wood, sawdust, shavings, bark, lime, refuse, ashes, offal, oil, tar, chemicals and all other substances, except industrial wastes and sewage, which may cause pollution of any surface waters of the State.

"Pollution" means the discharge or deposit of sewage, industrial wastes, or other wastes in such condition, manner or quantity as may cause ground or surface water to be contaminated, unclean, or impure to such an extent as to make said waters detrimental to the public health or to the health of animals, wildlife, fish, marine life or aquatic life; unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses.

"Person" means any and all persons, natural or artificial, including any individual, firm or association and any municipal or private corporation organized or existing under the laws of this or any other state or county.

"Section 3. Commission created; members, compensation and expenses; meetings; administrative and disbursing agent. (a) There is hereby created a Water Improvement Commission consisting of 14 members as follows: The State Health Officer, who shall be the chairman of the Commission; the Director of the Department of Conservation, who shall be Vice Chairman; the Commissioner of the Department of Agriculture and Industries; the State Geologist; one member representative of municipal government, one member representative of county government; two members representative of wildlife conservation; and six members respectively representative of the following six industries of the State, viz: Mining, Textiles, Chemicals, Lumbering, Paper, Metals.

(b) The four ex-officio members shall hold office as such throughout their respective terms and until the appointment and qualification of their successors as such. The remaining ten members of the Commission shall be appointed by the Governor and shall hold office for a term of six years. The member representative of a municipal government shall be appointed from three nominees made by Alabama League of Municipalities; the member representative of county government shall be appointed from three nominees made by Association of County Commissioners of Alabama, the two members representative of wildlife conservation shall be appointed from five nominees made by Alabama Wildlife Federation; the members representative of Mining, Textiles, Chemicals, Lumbering, Paper and Metals shall be appointed from three nominees for each of said industries, such nominations to be made by

Alabama Mining Institute for Mining; Alabama Textile Manufacturers Association for Textiles; Alabama State Chamber of Commerce for Chemicals; Alabama Forest Products Association for Lumbering; Associated Industries of Alabama for Paper; and Alabama Mining Institute for Metals. In the event any such organization shall fail to make such nominations within sixty days after receipt of notice from the Chairman of the Commission, the Governor shall make any such appointment of his own discretion. The Technical Secretary of the Commission shall report the absence of any representative from three consecutive meetings to the Commission. The Commission, by majority vote, may declare the position of such absentee representative vacant. If the Commission shall so vote, the Technical Secretary shall forthwith notify the agency of the Commission's action and such agency shall, within sixty days, send to the Governor the names of three nominees and the appointment of a successor shall be made by the Governor in the manner provided for in this section.

(c) Upon the death, resignation or removal of any appointed member, the Governor shall, upon certification thereof to him by the Commission, appoint some qualified person to fill the vacancy for the unexpired term of said member, in the manner provided for in subsection (b).

The term of office of every member shall be from the date of his appointment and qualification until the appointment and qualification of his successor. All members shall have been residents of the State of Alabama for two or more years prior to their appointment. The Chief Sanitary Engineer Division of the Bureau of Sanitation, of the Department of Public Health, shall serve as Technical Secretary to the Commission.

(d) No salary or compensation shall be allowed any member of the Commission for services thereon; this shall not, however, be construed to affect in any way the regular compensation of officials of State departments, who by virtue of their position are members of the Commission, services on the Commission being considered a part of the duties of such officials as representative of the respective departments. Actual and necessary travel subsistence, and other expenses incurred by members in the discharge of their official duties as members of the Commission and by direction or request of the Commission, shall be paid as provided by law from any funds which are or may become available for the purpose of this act.

(e) The Commission shall meet regularly in April and October of each year and special meetings may be held at any time or place determined by the Commission or upon call of the Chairman or upon written request of any five members to take up any matters within its jurisdiction, provided that all members shall be notified of the time and place of any regular or special meeting at least ten days in advance of such meetings.

(f) The Commission shall keep a complete and accurate record of the proceedings of all its meetings, a copy of which shall be kept on file in the office of the Technical Secretary and open to public inspection.

(g) The State Department of Public Health shall be the administrative and disbursing agent for the Commission within the limits of appropriations and funds, which are or which may become available from any source for this purpose.

(h) There is hereby created an Executive Committee of the Water Improvement Commission consisting of five of its members as follows: The State Health Officer who shall be the Chairman of the Executive Committee; the Director of the Department of Conservation; the member representative of Municipal Government; a member representative of industry; and a member representative of Wildlife Conservation. The member representative of industry and the member representative of wildlife conservation shall be appointed by the Chairman and shall serve at the pleasure of the Chairman. The Executive Committee may meet at any time or place upon call by the Chairman and, when the full Commission is not assembled, said Executive Committee may act for the full Commission and shall possess all such powers and jurisdiction of said Commission as may be delegated to it by said Commission provided, however, that every act or order of the Executive Committee shall be promptly reported in writing to each member of the Commission and shall become final and subject to review as the act or order of the Commission pursuant to par. (m) and par. (n) of Sec. 4 of this act seven days after the mailing of such report of the Executive Committee unless within said seven-day period any three or more members of the Commission shall request in writing to the Chairman of the Commission that such act or order of the Executive Committee be submitted to a meeting of the Commission for its review, in which event the Chairman shall submit the matter de novo to a meeting of the Commission, provided, that orders issued by the Executive Committee shall become effective immediately upon issuance and shall continue in effect in accordance with their terms unless changed by review of the Commission.

(i) Eight members of the Commission shall constitute a quorum for the transaction of Commission business.

(j) The incumbent members of the Water Improvement Commission as established under Act No. 523, Regular Session 1947 (Gen. Acts 1947, p. 379), as amended, together with the additional member representative of wildlife conservation as herein provided, and except for the representatives of the University of Alabama and Auburn University, which are deleted, shall constitute the membership of the Commission provided for in this Act and shall continue to serve until their successors are appointed as provided in Section 3 (b) or (c).

Section 4. Powers and duties of Commission; review and enforcement of orders. It shall be the duty of the Commission to control pollution in the waters of the State and it shall specifically have the following powers:

(a) To study and investigate all problems concerned with the improvement and conservation of the waters of the State. To conduct independently and in cooperation with others, studies, investigation, research, and to prepare, or in cooperation with others prepare, a program or programs, any or all of which shall pertain to the purity and conservation of the waters of the State of Alabama or to the treatment and disposal of sewage, industrial wastes, or other wastes which may be the causes of pollution, which studies, investigations, research and program or programs shall be intended to result in the reduction of pollution of the waters of the State of Alabama according to the conditions and particular circumstances existing in the various communities throughout the State of Alabama; to propose remedial measures insofar as practical means are available for abatement of such pollution. To this end the Commission may cooperate with any public agency, including Federal agencies, or with any private agency in the conduct of such experiments, investigations and research, and may receive in behalf of the State of Alabama, any moneys which any such agency may contribute as its share of the cost under any such cooperative arrangement. Provided that such moneys shall be used only for the purposes for which they are contributed, and any unexpended balance remaining after the conclusion of the experiments, investigation and research, or other uses for which such moneys were granted or donated, shall remain to the credit of the Water Improvement Commission Fund unless the terms of such grant, gift, or donation specifically require the return of any unexpended balance.

(b) It shall be the duty of the Commission to conduct surveys with respect to the pollution of any streams in the State either navigable or not navigable; to establish criteria standards for recognized limits of pollution; and, independently or in cooperation with other agencies, both public and private, to promote, through education and demonstration, water conservation and the abatement of stream pollution.

(c) Every person, municipality, industrial or other establishment, shall furnish to the Commission within a specified time but not less than ninety days after written request therefor, all pertinent information within their knowledge required by it in the discharge of its duties under this Act; provided, however, that no person or industry shall be required to disclose any secret formulae, processes or methods. The fees of witnesses for attendance and travel shall be the same as fees of witnesses before the courts of record and shall be paid from the appropriation for the expenses of the Commission. Any judge of a court of record, either in term



time, or vacation, upon application of the Chairman or acting Chairman of the Commission shall compel the attendance of witnesses, the production of books and papers, and the giving of testimony before the Commission or any agent thereof by attachment, or contempt or otherwise, in the same manner as the production of evidence shall be compelled before said court. The Chairman of the Commission shall require the attendance of employees who are needed as witnesses without subpoena. Any member of the Commission or its employees or agents may enter any property, or any industrial or other establishment at any reasonable time for the purpose of collecting such information and no owner or official in charge shall refuse to admit such member, employee or agent for all purposes necessary to the discharge of his official duty.

(d) It shall be the duty of the Commission to render a formal report biennially to the Governor and each succeeding legislature in regular session assembled, of its activities and progress, and including any recommendations for amendment to this Act.

(e) It shall be the further duty of the Commission to extend its cooperation and to advise with industries and municipalities relative to the control of waste and other deleterious matter of pollutive nature and to make available to industries and municipalities the benefits of its studies and findings.

(f) It shall be the duty of the Commission to exercise general supervision over the administration and enforcement of all laws relating to pollution of the waters of the State. Whenever the Commission determines that any person is violating or is about to violate any of the provisions of this Act or any rule or order of the Commission promulgated thereunder, the Commission may notify such person of such determination of the Commission. The notice may be served by registered mail or by an officer empowered to serve process under existing laws or by an officer or agent of the Commission. Within such time as may be specified in such notice, such person shall file with the Commission a full report, showing steps that have been taken and are being taken to control such discharge or pollution. Thereupon, the Commission may make such orders as in its opinion are deemed reasonable.

(g) It shall be the duty of the Commission, after notice as hereinafter provided to establish such standards of quality for any waters in relation to their reasonable and necessary use as shall be in the public interest, recognizing that because of variable factors and varied use of waters, no single standards of treatment and no single standard of quality are practical, and that the degree of treatment of sewage and industrial waste must take into account the present and future uses, and such general policies relating to existing or proposed future pollution as it shall deem necessary to accomplish the purposes of this Act, and to modify, amend or cancel

the same. Any provision of law to the contrary notwithstanding, the quantity of pollution existing in an effluent at any time shall be subject to the control of the Commission if it creates a health hazard. Prior to establishing standards as herein provided, the Commission shall cause to be published in a newspaper published in and of general circulation in each county within which any such waters, wholly or partially, are located, a notice in substantially the following forms:

#### NOTICE

##### Of Water Improvement Commission

Notice is hereby given that a meeting of the Water Improvement Commission of the State of Alabama will be held on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_, at \_\_\_\_\_ for the purpose of establishing standards of quality in those certain waters in the county or counties of \_\_\_\_\_ Alabama, described as follows \_\_\_\_\_ (Describe Waters) \_\_\_\_\_. Anyone desiring to be heard may appear at said meeting.

Water Improvement Commission

By: \_\_\_\_\_  
Chairman

Such notice shall be published once a week for three consecutive weeks prior to the holding of any meeting of the Commission for consideration of such standards; provided, however, in any county where no such newspaper is available for publishing said notice, the prescribed notice shall be posted at the county courthouse of said county for a period of three weeks prior to holding of any such meeting of the Commission.

(h) It shall be the duty of the Commission to receive and examine applications, plans, specifications and other data and to issue permits for the discharge of sewage, industrial waste and other waste into the waters of the State, stipulating in each permit the conditions under which such discharge may be permitted. Any order of the Commission with respect to the issuance of a permit shall be subject to review and appeal by the applicant as provided in subsection (n).

(i) It shall be the duty of the Commission, and it shall have the authority to adopt rules and regulations to carry out the provisions of this Act.

(j) It shall be the duty of the Commission to issue reasonable orders directing particular persons responsible for pollution to secure within a reasonable time to be specified by the Commission

such operating results toward the control or abatement of pollution as the Commission may prescribe in accordance with this Act. (1) Every person who, prior to the effective date of this Act, is discharging any pollution into any waters of this State under a permit of the then existing Commission may continue to do so under said permit unless and until the Commission takes steps to modify the terms of the permit. (2) Every person who, subsequent to the effective date of this Act, begins discharging any new or increased pollution into any waters of this State shall apply to the Commission in writing for a permit and shall obtain such permit before discharging such pollution. (3) Every person, who, prior to the effective date of this Act, is discharging any pollution into any waters of this State without a permit covering such discharge may, in accordance with the terms of this Act, be required by the Commission to apply for such a permit as a condition of continuing such discharge. Whenever the Commission may determine after survey and investigation of a particular discharge of pollution for which no permit has been issued that such discharge may not meet the requirements of this Act or the rules and regulations or orders of the Commission, as the same may be applicable to such discharge, the Commission must require the municipality, industry or person discharging such pollution to apply for a permit with respect thereto. The applicant shall be granted a temporary permit upon his representation that a study looking toward improvement or control of the pollution is underway or will be instituted. The applicant shall be allowed a reasonable time, not exceeding six months, in which to develop and submit a plan to the Commission. If the plan submitted is satisfactory and approved by the Commission, a permanent permit shall be issued subject to compliance within seven years with such plan; however, if the plan is not satisfactory as submitted, the applicant shall be allowed a further period, not exceeding six months, in which to submit a revised plan. The Commission shall act on any such plan not later than six months subsequent to the submission of such plan. A person who does not submit a plan satisfactory to the Commission as herein provided shall be required to install within seven years thereafter, such waste systems, devices or methods as the Commission determines necessary to control his pollution and as may be in conformity with the provisions of this Act.

Any and all pollution shall be subject to immediate control of the Commission if it creates, or is about to create, a health hazard.

(k) The Commission shall investigate from time to time the discharge of pollution into the waters of the State, and if such investigation discloses that the discharge is not being made by a permittee in accordance with terms and specifications of a permit, the Commission may issue to the permittee an order to cease and desist from the acts or practices specified in the order.

(l) The Commission may enter into agreement with the responsible authorities of the Federal Government and of other states, subject to the approval of the Governor, relative to policies, methods, means and procedures to be employed to control pollution of any interstate waters and to carry out such agreements by appropriate general and special orders. This power shall not be deemed to extend to the modification of any agreement with any other state concluded by direct legislative act, but unless otherwise expressly provided, the Commission shall be the agency for the administration and enforcement of any such legislative agreement.

(m) When the Commission makes any order directing any person or persons to do or not to do any act specified therein, a copy of such order shall be served upon such person or persons by registered mail or by other method provided in subsection (b) for service of process, and such person or persons may within a period of 30 days after such service, obtain a review of the order as provided in subsection (n). If no such review is obtained, then at the expiration of said period of 30 days after such service, the order of the Commission shall become final and conclusive. Service by registered mail as provided in this Act shall be had by mailing to the person to be served, postage prepaid, the papers to be served. The envelope containing such papers shall be marked "For Delivery Only to the Person to Whom Addressed" and a return receipt to be addressed to the Commission shall be demanded of the post office authority. Such return receipt when received shall be filed in the Commission's records and any entry shall be made upon such records of the date that the return receipt was received. Such receipt and record entry shall be prima facie evidence of service of process upon the person to whom the registered letter was addressed and serviced, for the purpose of this Act, shall be dated from the date of the receipt by the Commission of the return receipt.

(n) Any person who shall feel himself aggrieved by any rule or order of the Commission shall have the right to obtain a review thereof by filing with the Commission, within the time provided in subsection (m), a sworn petition setting forth the grounds and reasons for his complaint and asking for a hearing of the matter involved. The Commission shall thereupon fix the time and place of such hearing and shall notify the petitioner thereof by registered mail not less than ten days in advance of the hearing. At any time prior to the commencement of the hearing, any person may become an intervenor in the proceedings by filing a sworn petition setting forth facts showing that his rights may be prejudiced by an order of the Commission in the matter involved. The Commission and its members shall have full power to subpoena witnesses for the Commission, for the petitioner and for any intervenor, to administer oaths, examine witnesses under oath and conduct the hearing. At such hearing, the petitioner and any intervenor may appear, present witnesses and submit evidence. The order of determination of the



Commission shall be served on the petitioner and any intervenor by registered mail or by other method provided in subsection (f) for service or process. At the expiration of 30 days from the date of serving on the parties such order or determination of the Commission upon the matters included in the hearing, the said order shall become final and conclusive unless the petitioner, or any intervenor whose rights are prejudiced by said order of the Commission, shall, within such period of 30 days after the service of such final order, appeal to the circuit court of Montgomery County, Alabama, by giving cost bond with sufficient sureties payable to the State, in such amount not less than \$100.00 or more than \$500.00 as may be fixed in the order appealed from said cost bond to be filed with and approved by the Chairman of the Commission, who shall forthwith certify to the circuit court to which the appeal is taken, the said cost bond together with a certified copy of the record of all proceedings of the Commission in the matter appealed from, but not including a transcript of the testimony of witnesses or other evidence. Said matter shall be tried de novo on the equity side of said circuit court and shall be a preference case on the docket thereof. On such trial the court shall have jurisdiction to determine whether said order of the Commission is lawful, and whether the same is reasonable, and whether a polluted condition of any water or waters exists or is about to exist as set forth in the order appealed from, and to affirm, modify or wholly set aside such order, it being the intent and purpose of this Act that the order of said Commission, when appealed as hereinabove provided, shall be final and conclusive only when so determined by such court. The judgment of the circuit court shall be certified to the Commission. Any party to such action may within 30 days after judgment appeal to the Supreme Court of Alabama under the same procedure as governs appeals from courts of equity. If a supersedeas is desired by the party appealing, he may apply therefor to the judge of the court from which said appeal is taken, who shall award a writ of supersedeas, without additional bond, if, in his judgment, material damage is not likely to result thereby. Otherwise, said judge shall require such supersedeas bond as he deems proper, made payable to the State of Alabama in such amount as he shall require.

(o) The State Department of Public Health shall make such inspections, conduct such investigations, and do such other things as may be necessary to cooperate with the Commission in carrying out the provisions of this Act.

(p) Upon complaint made by the Commission, any person found guilty of willfully violating Section 4 or any order of the Commission which is made in pursuance of the provisions of this Act and which has become final and conclusive as provided in this Act shall be deemed guilty of a violation of the provisions of this Act which shall be punishable by a fine of not less than one-hundred dollars nor more than ten-thousand dollars.

(q) The Commission may recover damages by action at law in the circuit court for loss or destruction of wildlife, aquatic, fish or marine life caused by pollution of the waters of the State resulting from the wrongful act, omission or negligence of a person. Both punitive and compensatory damages may be recovered in a case where the pollution resulted from willful or wanton conduct on the part of the polluter; compensatory damages alone may be awarded when the pollution is caused by a negligent act or omission. Damages shall not be allowed in any case when the pollution is the result of an act of God. Such suits shall be filed in the name of the State by the Attorney General, at the direction of the Commission, in the county, or in the case of more than one county, in any county in which such wildlife, aquatic, fish or marine life or any part thereof were so destroyed or killed. Such sums as may be recovered as punitive or compensatory damages for the loss or destruction of wildlife, aquatic, fish or marine life shall be credited to the Game and Fish Division of the Department of Conservation, said sums to be expended for the betterment and improvement of the affected waters, including restocking of fish.

Section 5. Funds, facilities and personnel. The Commission is authorized to accept and use such funds, facilities, or personnel as may be or may become available for the purposes of this Act, either directly to the Commission or in any of the State departments or from Federal or other agencies represented; but nothing herein shall be construed to limit, modify, or supersede any of the powers or duties of said cooperating departments or agencies unless in direct conflict with this Act, nor to interfere with the power of each such department or agency to determine the disposition of funds specifically appropriated to it and to select, employ and control all of its employees regardless of the fact that said employees may be assigned and devoting the whole or a part of their time to work under the direction of the Commission. There is hereby created and there shall be a fund which shall be known as the Water Improvement Commission Fund. This fund shall consist of: (a) All moneys appropriated to the Commission by the State Legislature of Alabama; (b) All moneys received by the Commission by appropriation from county or municipal governments; (c) All gifts, grants, bequests or donations from individuals, associations, corporations, or industries; (d) All moneys derived through any source of Federal Aid; and (e) All moneys accruing to the Commission from any source whatever. The fund shall be used and expended by the Chairman of the Commission in accordance with the terms of the gift, grant, bequest, appropriation or donation from which said moneys are derived, and in the absence of any such terms or stipulations shall be expended by the Chairman of the Commission in furtherance of any of the provisions of this Act. All necessary expenses of the Commission shall likewise be paid out of said fund on the requisition of the Chairman of the Commission as may be deemed advisable. The Commission is authorized to employ such consultants and fulltime technical and clerical and other workers as are necessary and within

the available funds to carry out the purposes of this Act. The Technical Staff to be employed by the Commission shall be selected from, but not limited to, the following professional groups: sanitary engineer, chemical engineer, biochemist, geologist, fish culturist, mining engineer, agricultural engineer, forest engineer, analytical chemist, agronomist, bacteriologist, and biologist.

Section 6. Act intended to supplement existing law. This Act is intended to supplement existing law, and no part thereof shall be construed to repeal any existing laws specifically enacted for the protection of health or the protection of fish and game of the State; however, Act No. 523, Regular Session of 1947 (Gen. Acts 1947, p. 379) as amended, is hereby expressly repealed.

Section 7. The members of the Water Improvement Commission who are serving their terms upon the effective date of this act together with the additional member representative of wildlife conservation herein provided and except for the members representative of the University of Alabama and Auburn University, which are deleted, shall, upon the effective date of this Act, become members of the Commission herein established, it being the intent that the present membership of the Water Improvement Commission together with said additional member and except for the two members deleted shall constitute and become the new Commission with the terms of each of the members remaining unchanged. In respect to said additional member representative of wildlife conservation herein provided, the said Alabama Wildlife Federation, within sixty days after this bill becomes a law, shall submit five nominees for said membership to the Governor who shall appoint from said five names so submitted the additional member representative of wildlife conservation whose term shall begin immediately at the time of said appointment. The term of said additional member shall run concurrently with that of the other or incumbent member representative of wildlife conservation and shall expire at the same time, and thereafter the appointment of said two members representative of wildlife conservation shall be at the same time and their terms shall run concurrently. All of the matters pending before the Water Improvement Commission upon the effective date of this Act shall, upon the effective date of this Act, be transferred to the jurisdiction of the new Commission, and all actions heretofore taken and jurisdiction heretofore exercised by the Water Improvement Advisory Commission or Water Improvement Commission, as the case may be, shall be considered in all respects as having been acts of the new Commission. All personnel who are in the employ of or are assigned to the Water Improvement Commission upon the effective date of this Act shall, upon the effective date of this Act, become the employees of or assigned to the new Commission. All books, records, equipment, facilities, funds allocated to or in its possession (including unexpended appropriations), notes and accounts receivable and all other property of every kind whatsoever of the Water Improvement

Commission upon the effective date of this Act shall, upon the effective date of this Act, be transferred to, vest in and become the property of the new Commission, and all contracts, leases, debts, obligations and liabilities of every kind whatsoever of the Water Improvement Commission upon the effective date of this Act shall, upon the effective date of this Act, be transferred to, inure to the benefit of and be binding upon the new Commission, it being the intent of this Act that the new Commission supersede and replace, but continue all business and affairs of, the Water Improvement Commission.

Section 8. If any clause, sentence, paragraph, provision, part of section of the Act shall for any reason be adjudged by any court of competent jurisdiction invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, provision part or section thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 9. This Act shall take effect three months from the date of its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 26, 1965.  
Time: 6:16 P.M.

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